(21,573.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1910.

No. 183.

RAFAEL ENRIQUEZ ET AL., APPELLANTS,

vs.

FRANCISCO ENRIQUEZ AND CARMEN DE LA CAVADA DE ENRIQUEZ, HIS WIFE.

APPEAL FROM THE SUPREME COURT OF THE PHILIPPINE ISLANDS.

INDEX.

	Original.	Print
Caption	1	1
Proceedings in the court of first instance of the city of Manila		1
Complaint	1	1
Summons issued and served		4
Notice to testify, &c.		
Order on Victoriano Reyes to testify	7	4
Deposition of Victoriano Reyes	8	5
Appearance for defendants	11	6
Answer of Victoriano Reyes		
Demurrer to complaint		
Order overruling demurrer	13	8
Answer of Francisco Enriquez *et ux*	15	9
Motion to amend complaint	18	11
Order to amend complaint		11
Amendments to complaint		11
Subpœna issued and served	19	11
Petition for appointment of guardian *ad litem*	20	12
Order for appointment of guardian *ad litem*		12
Second amended complaint	21	12
Subpœna issued and served	26	15

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	Original.	Print
Amended answer of Francisco Enriquez *et ux*	27	16
Exhibit A—Deed, Enriquez to Reyes	31	18
B—Deed, Reyes to Enriquez	36	20
C—Page 22 of document presented against Francisco Enriquez for making false statement in a public instrument	39	22
E—Pages 229 to 231 of the second piece of the record	44	24
F—Letter of commanding officer to judge, December 31, 1897	45	25
G—Power of attorney from Antonio Enriquez to Francisco Enriquez	46	26
H—Part of letter signed Antonio	50	28
I—Document No. 543	51	28
Motion for continuance	55	30
Citation for witnesses issued and returned	55	30
Offers of documents	56	31
Document No. 1—Deed of sale, November 14, 1885	56	31
No. 2—Bill of sale, April 15, 1887	60	33
No. 3—Certificate of Dr. Bartolome Robert	63	35
No. 4—Certificate of priest of the parish church of San Geronimo el Real in city of Madrid	64	35
Letter, Francisco to Pepen, Dec. 30, 1882	65	36
No. 6—Letter, Tula to Quico, May 31, 1884	70	38
No. 7—Letter, Rafael to Quico, February 9, 1883	71	39
No. 8—Letter, Rafael to Quico, May 14, 1883	74	40
No. 9—Letter, Rafael to Father, February 9, 1883	75	41
No. 10—Letter, Rafael to Quico, June 1, 1883	77	42
No. 11—Letter, Rafael to Quico, June 28, 1883	78	43
No. 12—Letter, Antonio to Quico, December 30, 1883	82	45
No. 13—Letter, Carmen to Quico, January 31, 1884	83	45
No. 14—Letter, Tula to Quico, September 20, 1883	85	47
No. 15—Letter, Manolo to Francisco, May 29, 1883	87	48
No. 16—Letter, Manolo to Francisco, July 30, 1883	90	50
No. 17—Letter, Antonio to Quico, Nov. 30, 1883	93	51
No. 18—Order of court of first instance of intramuros, February 19, 1883	95	52
No. 19—Statement of Enriques, March 4, 1883	95	53
No. 19—Document No. 882	97	53
No. 20—Agreement of November 3, 1897	110	61
No. 21—Power from Francisco Enriquez, May 17, 1886	113	63
No. 22—Agreement of December 27, 1881	116	65
No. 23—Certificate of assessor and collector, June 4, 1902	121	68
No. 24—Lease to Chan Ku Cheong	122	68
Court proceedings, May 29, 1902	124	69
Testimony of Carmen de la Cavada de Enriquez	125	70
Victoriano Reyes	135	76
Francisco Enriquez	142	80
Vicente Collado	143	81
Luis Quintos	146	83
Plaintiffs' Exhibit 4—Testimony of Pascual Reyes	158	89

	Original.	Print
Testimony of Francisca Marquez	167	95
Plaintiffs' Exhibit 5—Testimony of Carmen Gonzales de Badolato	169	96
Exhibit 6—Testimony of Agueda Esteban	171	97
Testimony of Rufina Bernaldo	185	104
Tomas Rodriguez	193	109
Bonifacio Briones	196	111
Arcadio Arellano	198	112
Jose Guevara	200	113
Antonio Enriquez	202	114
Trinidad Enriquez	221	125
Rafael Enriquez	233	131
Carmen de la Cavada de Enriquez	247	138
Enrique Barrera y Caldes	261	145
Mariano Garcia del Rey	266	148
Bruno Vilamar	277	154
Dr. Altman	279	155
Venancio Ruiz	301	167
Eustaquio Villafranca de Mendoza	308	171
Rafael Enriquez	314	174
Francisco Enriquez	341	188
Antonio Enriquez	352	194
Francisco Enriquez	356	196
Emilio Martinez Llanos	382	210
Manuel Jerez Burgos	390	214
Jose Ernesto del Rosario	399	219
Augusto Montagne	402	221
Rafael Enriquez	406	223
Decision of Odlin, J	412	226
Petition for appeal	418	229
Motion to strike bill of exceptions	419	230
Order concerning bill of exceptions	421	231
Order extending time to object to proposed bill of exceptions	424	232
Objections to bill of exceptions	425	233
Order on defendants to give bond, etc	428	235
Clerk's certificate as to record	430	235
Objections to bill of exceptions	430	236
Stipulation as to bill of exceptions	431	236
Judge's certificate to bill of exceptions	432	237
Telegrams in reference to bond	432	237
Case filed in supreme court	433	237
Decision	434	238
Judgment	437	240
Cause remanded, &c	438	240
Further proceedings in court of first instance	438	241
Motion for guardian *ad litem*	439	241
Second amended complaint	439	241
Order appointing guardian *ad litem*	447	245
Amended answer	448	246
Exhibit A—Power of attorney executed by Antonio Enriquez in favor of his son Francisco, March 5, 1883	455	249

	Original.	Print
Exhibit B—Deed, Francisco Enriquez to Victoriano Reyes, March 12, 1884	460	251
C—Deed, Victoriano Reyes to Carmen de la Cavada, April 5, 1884	465	254
Stipulation as to bill of exceptions	468	256
Court proceedings, August 28, 1905	469	256
Offers for plaintiffs	469	256
Offers for defendants	470	257
Exhibit A—Order of court of first instance, intramuros, February 8, 1900	472	258
B—Order of court of first instance of the district of Tondo, Manila, May 14, 1900	475	259
C—Order of court of first instance of intramuros, March 11, 1901	477	260
Agreed statement of facts	481	263
Decision of Crossfield, J	486	266
Exception, and motion for new trial	500	273
Order overruling motion for new trial	501	273
Notice of bill of exceptions	501	274
Judge's certificate to bill of exceptions	502	274
Clerk's certificate to bill of exceptions	502	274
Case refiled in supreme court	503	275
Assignment of errors	503	275
Briefs filed and cause argued	504	275
Stipulation to complete record	504	276
Decision	506	276
Judgment	519	283
Cause remanded	520	283
Petition for appeal	520	283
Allowance of appeal	521	284
Assignment of errors	521	284
Affidavit of value	523	285
Bond	524	286
Citation and service (copy)	525	287
Affidavit of value	527	287
Petition to extend time to file record	528	288
Order to extend time to file record	529	288
Clerk's certificate	530	289
Petition for and allowance of appeal (original)	531	289
Citation and service (original)	532	290

1 UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G. No. 3535.

RAFAEL ENRIQUEZ, Administrator of the Estate of Antonio Enriquez, Deceased, Plaintiff & Appellant,

vs.

FRANCISCO ENRIQUEZ and CARMEN DE LA CAVADA DE ENRIQUEZ, His Wife, and VICTORIANO REYES, Defendants & Appellees.

Be it remembered that the following proceedings were had in the Court of First Instance of the City of Manila and in the Supreme Court of the Philippine Islands in the above entitled cause.

On the 10th day of December, 1901, a complaint was filed in the Court of First Instance of the City of Manila, which said complaint is in the words and figures following, to-wit:

In the Court of First Instance of Manila.

RAFAEL ENRIQUEZ, Administrator of the Estate of Antonio Enriquez, Deceased, Plaintiff,

FRANCISCO ENRIQUEZ and CARMEN DE LA CAVADA DE ENRIQUEZ, His Wife, and VICTORIANO REYES, Defendants.

Plaintiff complains and alleges:

1. That he is now, and during the year last past was, the duly appointed, qualified, and acting administrator of the estate
2 of Antonio Enriquez, deceased.

2. That on the 12th day of March, 1884, for a long time prior thereto, and thereafter up to on or about the 31st day of July 1884, the time of the death of the said Don Antonio Enriquez, deceased, as hereinafter stated, the defendant, Francisco Enriquez, was attorney in fact of the said Don Antonio Enriquez, deceased.

3. That immediately after the death of the said Don Antonio Enriquez, deceased, on or about the 31st day of July, 1884, the said defendant, Francisco Enriquez, became the executor and administrator of the estate of the said Don Antonio Enriquez, deceased, and from said date continued acting as such executor and administrator until about the latter part of the year 1900.

4. That on the 12th day of March, 1884, for a long time prior thereto, and at the time of the simulated sale made by defendant Francisco Enriquez to defendant Victoriano Reyes, as hereinafter stated, the said Don Antonio Enriquez, deceased, was absent from the city of Manila, and was temporarily residing in the Kingdom of Spain, where he continued to so temporarily reside until the time of his death.

5. That on the 12th day of March, 1884, for a long time prior thereto, and at the time of the simulated sale made by defendant Francisco Enriquez to defendant Victoriano Reyes, as hereinafter stated, the said Don Antonio Enriquez, deceased, was the sole and exclusive owner, in the possession and entitled to the possession of that certain piece of real property situate in the City of Manila, Philippine Islands, at Calle Numancia, now commonly designated as Nos. 76 to 84 Calle Numancia, bounded on the front thereof by the said Calle Numancia and extending to the lands of Don Manuel Genato, and bounded on the right side of its entrance by the lands of Don Manuel Genato, and on the left side of its entrance by Calle Urbiztondo.

3 6. That at the dates aforesaid the said property was of the value of about 20,000 pesos, and the said property is now of the value of about 40,000 pesos.

7. That on or about the 12th day of March, 1884, and while the defendant, Francisco Enriquez, was the attorney in fact of the said Don Antonio Enriquez, deceased, the defendant, Francisco Enriquez, as such attorney in fact, did fraudulently, and with intent to defraud and cheat the said Don Antonio Enriquez, deceased, execute an instrument of conveyance, and did so fraudulently, and with intent to cheat as aforesaid, convey to the defendant, Victoriano Reyes, all of the property aforesaid.

8. That the said Conveyance so fraudulently executed by the said defendant, Francisco Enriquez, was not a genuine conveyance, but was a simulated one, entered into by and between the said Francisco Enriquez and the said Victoriano Reyes for the purpose of defrauding and cheating the said Don Antonio Enriquez, deceased.

9. That no consideration of any kind whatsoever was paid by the defendant, Victoriano Reyes, or by anyone else, to the defendant, Francisco Enriquez, or to anyone else, for the conveyance aforesaid, nor for the said property.

10. That on or about the 5th day of April, 1884, and within a month after the execution of the conveyance aforesaid, the defendant, Victoriano Reyes, at the instance and request of the defendants, Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, and for the purpose of defrauding and cheating the said Don Antonio Enriquez, deceased, did execute an instrument of conveyance, and did convey to the said defendant, Carmen de la Cavada de Enriquez, all of the property aforesaid.

4 11. That the said conveyance executed by the said defendant Victoriano Reyes to the defendant Carmen de la Cavada de Enriquez was not a genuine conveyance, but was a simulated one, and made and executed for the purpose of defrauding and *and* cheating the said Don Antonio Enriquez, deceased.

12. That the said defendant, Carmen de la Cavada de Enriquez, did not, nor did anyone else pay to the said Victoriano Reyes, or to anyone else, any consideration whatever for the conveyance last aforesaid, nor for the property afore-mentioned

13. That the defendant, Carmen de la Cavada de Enriquez, now

is, and at all times herein mentioned has been, the wife of the defendant, Francisco Enriquez.

14. That the said Don Antonio Enriquez, deceased, died testate *or our* about the month of July, 1884, at the Kingdom of Spain, leaving a will by which he left all of his property of which he died seized to all of his children, share and share alike.

15. That the defendant, Francisco Enriquez, is the oldest surviving child of the said Don Antonio Enriquez, deceased.

16. That the plaintiff, Don Rafael Enriquez, is one of the surviving children of the said Don Antonio Enriquez, deceased, and is now, and during the year last past has been, acting as administrator of the said estate of Don Antonio Enriquez, deceased.

17. That ever since the said 5th day of April, 1884, the defendants, Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, have been in the exclusive possession of the property aforesaid, and of the whole thereof, and have been collecting all of the rents and profits of said property, and have ever since, and
5 are now, appropriating the whole of said rents and profits to their own exclusive use.

18. That the value of the rents and profits of the property aforesaid has been, from the year 1884 to the year 1890, the sum of 100 pesos per month; that the value of said rents and profits from the year 1890 to the year 1897, has been, and is, the sum of 150 pesos per month; that the value of the said rents and profits from the year 1897 to the present time has been, and is, the sum of 200 pesos per month.

Wherefore plaintiff prays judgment against the defendants, and against each of them:

1. That the conveyance executed by the defendant, Francisco Enriquez, to the defendant, Victoriano Reyes, be set aside and declared null and void.

2. That the conveyance executed by the defendant, Victoriano Reyes, to the defendant, Carmen de la Cavada de Enriquez, be set aside and declared null and void.

3. That the property aforesaid, and the whole thereof be declared to be the property of the estate of Don Antonio Enriquez, deceased.

4. That it be adjudged and declared that the defendants, and each of them, have no exclusive right, title, or interest in and to said property, or to any part thereof.

5. That the plaintiff as such administrator recover of and from the defendants, Francisco Enriquez and Carmen de la Cavada de Enriquez, the value of the rents and profits of said property in the sum of 100 pesos per month from the year 1884 to the year 1890; for the sum of 150 pesos per month from the year 1890 to the year 1897; and for the sum of 200 pesos per month from the year 1897 to date.

6. For such other and further relief as the Court may
6 deem equitable and just.

7. For the costs of this action.

(Sgd.) MONTAGNE AND DOMINGUEZ,
Attorneys for Plaintiff, No. 97 Calle Palacio.

Thereafter to-wit: On the 10th day of December, 1901, summons were duly issued out of the Court of First Instance of the City of Manila requiring the defendants in the above entitled cause to ap-ear in the said action within twenty days from the service thereof, if made in the city of Manila, and within forty days if outside thereof, and to answer the complaint thereto attached within the time prescribed by the rules of Court.

Thereafter and on the said 10th day of December, 1901, the said summons, with copy of the said complaint, were duly served upon the defendants, Francisco Enriquez, Carmen de la Cavada de Enriquez, and Victoriano Reyes, by the Sheriff of the City of Manila.

Thereafter to-wit on the 11th day of December, 1901, the following notice was filed in the Court of First Instance of the City of Manila:

(Court and Title.)

To Victoriano Reyes, Defendant:

You are hereby notified that the plaintiff in the above entitled action will receive the testimony of yourself, Victoriano Reyes, a defendant therein, in conformity with the provisions of Sections 355 and 361 of the Code of Civil Proceedure in force in these Islands before Jose Maria Rosado, a Notary Public, in his office on Plaza Moraga, in the city of Manila, on Tuesday, the 17th of December, 1901, at 9 o'clock, A. M.; and you are accordingly notified that your presence is required before the said Notary on the day and at the time specified.

7

Respectfully,

(Sgd.) MONTAGNE AND DOMINGUEZ,
Counsel for Plaintiff.

(Court and Title.)

CITY OF MANILA,
Philippine Islands, ss:

A. A. Montagne, having been first duly sworn, deposes and says: That he is the attorney for the plaintiff in the above entitled action and as such acts therein for the benefit and in behalf of the said plaintiff; that in the said action Victoriano Reyes, one of the defendants therein, has been duly summoned.

(Sgd.) A. A. MONTAGNE.

Subscribed and sworn to before — this 11th day of December, 1901.

(Sgd.) J. MACMICKING, *Clerk.*

Thereafter to-wit on the 11th day of December, 1901, the Court made the following order:

(Court and Title.)

It ap-earing that Victoriano Reyes, one of the defendants in the above entitled action has been duly summoned and it appearing

that the plaintiff desires to take his deposition in accordance
8 with the law of civil procedure now in force it is hereby ordered that the said Victoriano Reyes appear before Jose Maria Rosado, a notary public, in his office on Plaza Moraga, city of Manila, on the 17th day of December, 1901, at 9 o'clock A. M. to give his deposition in the said action upon notice to the other side as required by law.

Manila, December 11, 1901.

(Sgd.) AURTHUR F. ODLIN.
Judge of the Court of First Instance of Manila.

Endorsed.

I certify that I have delivered a copy of this order and of the document thereto attached to Victoriano Reyes, personally.

Manila, December 11, 1901.

JAMES J. PETERSON.
Sheriff of Manila.

(Sgd.) By SIXTO VELASCO.
Deputy Sheriff.

Then follows a letter dated December 21, 1901, written by Jose Maria Rosado, a Notary Public, to the Judge of the Court of First Instance of the City — Manila, forwarding the deposition of Victoriano Reyes, given befor- him in accordance with the provisions of the code of civil procedure then in force.

The said deposition is as follows:

I, Jose Maria Rosado y Calvo, an attorney at law and a Notary Public in and for this city of Manila, and a resident thereof, do hereby certify that on this 17th day of December, 1901, there ap-eared before me for the purpose of giving his deposition in accord-
9 ance with the provisions — Sections 355 and 361 of the Code of Civil Procedure in force in these Islands, Rafael Enriquez, as administrator of the estate of Antonio Enriquez, plaintiff, and Victoriano Reyes, defendant, the former being accompanied by his attorney, Augustus A. Montagne, and the said Victoriano Reyes, having been sworn to tell the truth, the whole truth and nothing but the truth, deposed as follows:

Questions by Mr. MONTAGNE:

Q. States your name and age.

A. Victoriano Reyes, 60 years of age.

Q. Do you know Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife?

A. I do.

Q. Do you remember having bought from Francisco Enriquez, about the year 1884, in the city of Manila, a house on Calle Numancia, at present numbered 76 to 84?

A. I remember about the purchase of the property about which you refer but I do not know the numbers which it now bears.

Q. Have you at any time bought from any person any other property on Calle Numancia in the city of Manila?

A. No.

Q. How much did you pay for the property in question?

A. Nothing.

Q. At whose request did you buy that property?

A. At the request of Francisco Enriquez.

Q. For what purpose did you secure a deed of sale of the property in question?

A. In order to facilitate the transfer of the prelperty to Carmen de la Cavada de Enriquez.

Q. Did you afterwards sell the said property to Carmen de
10 la Cavada de Enriquez?

A. Yes.

Q. How much did you receive for the transfer of the property to Carmen de la Cavada de Enriquez?

A. Nothing.

Q. At whose request did you make the transfer in question to Carmen de la Cavada de Enriquez?

A. At the request of Francisco Enriquez.

Q. In the purchase, as well as in the sale to which you refer, did you receive any consideration or remuneration therefor?

A. No, Sir.

Q. For the purchase and for the sale to which you have testified, did you pay any remuneration or consideration therefor?

A. No, sir, the purchase, as well as the sale of the said property I executed at the request of Francisco Enriquez as a favor, believing that he was not acting in bad faith, and I was absolutely ignorent of the legal effects of my actions.

The foregoing is a true and correct transcript of the proceedings had before me in conformity with the provisions of the Code of Civil Procedure, at the request of the above mentioned persons, who, after reading same, ratified the contents thereof and signed with me, the undersigned notary, and in witness thereof I sealed these presents on the above mentioned date.

(Sgd.) VICTORIANO REYES.
(Sgd.) RAFAEL ENRIQUEZ.
(Sgd.) A. A. MONTAGNE.
(Sgd.) [NOTARY'S SEAL.] JOSE MARIA ROSADO.

11 Thereafter to-wit, on the 28th day of December, 1901, the defendants, Francisco Enriquez and Carmen de la Cavada de Enriquez, filed their appearance in the above entitled cause, through their attorney, Alfredo Chicote.

Thereafter to-wit on the 30th day of December, 1901, the defendant, Victoriano Reyes, filed his ap-earance in writing in the above entitled action in the Court of First Instance of the City of Manila.

On the 7th of January, 1902, the defendants, Victoriano Reyes, filed his answer to the complaint as follows:

(Court and Title.)

Victoriano Reyes, a defendant in the above entitled action, to the Court respectfully states:

That in compliance with the summons of this Court in Case No. 474, he filed his ap-earance in the office of the Clerk of this Court on the 30th day of December last and by answer to the complaint of Rafael Enriquez I beg leave to state:

1. That I have no knowledge of the facts alleged in paragraphs, one to eight of the said complaint.

2. That I paid nothing for the purchase of the property in question (Par. 9 of the complaint).

3. That some time afterwards I sold the said property to Carmen de la Cavada (Par. 10 of the complaint).

4. That I made the sale in question without any intention to defraud and merely to accom-odate Francisco Enriques, who, I think, and thought at the time, was acting in good faith (Par. 11 of the complaint).

5. That not having paid any sum of money for the purchase of the property I could not have received any consideration for the sale of it. (Par. 12 of the Complaint).

12 6. That Carmen de la Cavada is the wife of Francisco Enrique- (Par. 13 of the complaint).

7. That he has no knowledge of the facts al-eged by the plaintiff in the other paragraphs of this complaint.

Therefore I pray the Court to consider the foregoing as my answer to the complaint and that I be acquitted of the same with the costs against the plaintiff.

Manila, Jan. 7, 1902.

(Sgd.) VICTORIANO REYES.

Filed this 7th day of Jan., 1902.

(Sgd.) J. MACMICKING,
Clerk of the Court of First Instance of Manila.

Thereafter and on the 7th day of January, 1902, the defendants, Francisco Enriquez Villanueva and Carmen de la Cavada, his wife, filed a demurrer to the complaint, as follows:

(Court and Title.)

Now comes the defendants Francisco Enriquez Villanueva and his wife Carmen de la Cavada, and state:

That they hereby demur to the complaint for the following reasons:

1. That the plaintiff has no legal capacity to sue.

2. That the complaint does not state facts sufficient to constitute a cause of action.

The grounds of these objections to the complaint are:

1. That it ap-ears from the complaint that the plaintiff was not a party to the contracts, the nullity of which is sought, and is not, either principally or subsidiarily bound by the said contracts.

2. That the complaint fails to allege any fact which may give rise to the action of nullity set up in the complaint or show
13 that the plaintiff is entitled to the relief prayed for or that the defendants should be compelled to answer the complaint.

Wherefore the defendants hereby pray the Court to sustain this demurrer to plaintiff's complaint, relieving them of the necessity of filing an answer thereto.

Manila, Jan. 6, 1902.

(Sgd.) ALFREDO CHICOTE.

Endorsed: Copy of this demurrer was delivered to counsel for the other side.

Endorsed: Filed this 7th day of January, 1902. (Sgd.) J. Mac-Micking, Clerk of the Court of First Instance of the City of Manila.

On the 6th day of March, 1902, the Honorable Arthur F. Odlin, Judge of the Court of First Instance of the City of Manila made the following order in the above entitled cause:

(Court and Title.)

Order of Court Overruling Demurrer.

The complaint in this case is a very long one, but the facts may be briefly stated.

The plaintiff al-eges that in July, 1884, the defendant Francisco Enriquez became the executor and administrator of the estate of Antonio Enriquez, deceased, of whom the said Francisco Enriquez and the plaintiff are sons; that in the year 1900 the plaintiff was appointed administrator of said estate in place of his brother, the said Francisco Enriquez; that on March 12th, 1884, a few
14 months previous to the decease of *of* Antonio Enriquez, which took place in July, 1884, and while Francisco held a power of attorney from his father, he fraudulently conveyed to the defendant, Victoriano Reyes, certain real estate situated in Manila, for the purpose of defrauding the said Antonio Enriquez, and that said conveyance was made without consideration of any kind; that upon April 5, 1884, the defendant Victoriano Reyes, at the request of the defendants Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, for the purpose of defrauding the said Antonio Enriquez, did execute an instrument purporting to convey the said real estate to the said Carmen Enriquez; that in July, 1884, the said Antonio Enriquez died, leaving a will by which he devised all of his property of every kind to all of his children share and share alike; and that since April 5, 1884, the said defendants, Francisco Enriquez and Carmen Enriquez, his wife, have been enjoying exclusive possession of the said real estate, and have collected the rents thereof, and that they are now so collecting the same and applying the proceeds thereof to their own exclusive use.

The plaintiff prays that said conveyance be annulled, and that an accounting be had by the defendants Francisco Enriquez and

Carmen Enriquez to the plaintiff, as administrator, of the said rents, from the year 1884 up to the present time.

The defendants demur to this complaint on three grounds. First, because the plaintiff has not legal capacity to interpose this demand. Second, because it ap-ears that the plaintiff was never a party to the contracts or deeds sought to be annulled nor was he bound thereby either directly or indirectly. Third, that nothing ap-ears in the complaint upon which may be based a suit for annull-
15 ment of such deeds nor from which it appears that the plaintiff has any right to ask for the relief sought by him.

It is clear to me that this demurrer should be overruled. I think the plaintiff in his capacity as the present administrator of the estate of his father is the proper person to enforce this demand if it exists. The fact that the plaintiff was no party to the deeds sought to be annulled does not, in my judgment, prevent him from bringing this suit for the reason that, the father being dead and the plaintiff being the executor and administrator of his estate, he, in the eye, of the law, takes the place of his father, and has the right to bring this suit, even though his name did not ap-ear in any of the contracts sought to be an-ulled. It seems to me that the facts of this complaint, if true, clearly entitle the plaintiff to at least a portion of the relief which he claims, if not all, and this being clear, it is my duty to overrule the demurrer and it — so ordered.

The defendants will be allowed ten days in which to file their answers in this case.

Manila, Mar. 6, 1902.

(Sgd.) ARTHUR F. ODLIN, *Judge.*

Thereafter to-wit on the 14th day of April, 1902, counsel for defendants Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, filed their answer to the complaint as follows:

(Court and Title.)

Now come the defendants Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, and state:

That they specifically deny each and all of the allegations of the complaint contained in paragraphs 1, 4, 5, 6, 7, 8, 9, 10, 11, 12, 16 and 18 thereof; and that they admit the facts alleged in
16 paragraphs 2, 3, 13, 14, 15, and 17 in so far as they do not conflict with the facts alleged by the defendants in their respective defense as follows:

1. That Francisco Enriquez is the testamental executor and sole administrator, duly appointed as such, of the estate of Antonio Enriquez.

2. That by a public instrument, No. 108, executed on the 27th of December, 1881, there was sold at public auction to Antonio Enriquez for the sum of 1,367 dollars, local currency, a certain piece of property described as follows: "Three posesiones (a 3-family house) and the lot upon which it stands on the Riverita, on the corner of La Barraca, in the district of Binondo; bounded on the

front by the said Riverita; on the right with the property of Ceferino Gil; on the left by the said Barraca and on the back by the property of Manuel Callejas," which said property is at present bounded as set out in Par. 5 of the complaint.

3. That the said property which formerly belonged to the estate of Francisco de Paula Enriquez, a brother of Antonio Enriquez, was sold at public auction on the 20th of December, 1880, for the sum of 1,367 dollars, local currency, to Antonio Lorenzo Barreto, he being the highest bidder, and the said purchaser, Antonio Lorenzo Barreto, transferred all his rights in and to the said property to Antonio Enriquez in whose favor the judicial deed of sale was executed on the 27th of December, 1881.

4. That Francisco Enriquez, on the 12th of March, 1884, as attorney in fact for his father, Antonio Enriquez, actually sold and transferred to Victoriano Reyes, for the *the* sum of two thousand five hundred dollars, local currency, the property in question,
17 the said Francisco Enriquez, having received from the said Victoriano Reyes the agreed price, to-wit: two thousand five hundred dollars, local currency.

5. That on the 5th of April, 1884, the said Victoriano Reyes, actually sold and transferred the property in question to Carmen de la Cavada de Enriquez for the sum of two thousand five hundred dollars, local currency.

6. That the value given to the said property in Par. 6 of the complaint is merely arbitrary and intended to attract the attention of the Court, for as has been said, the said property was ap-raised and judicially sold in the year 1881 for the sum of one thousand three hundred and sixty-seven dollars local currency, and notwithstanding the improvements herebefore made thereon and increase in value of such property it has been ap-raised by the Board of Assessors in the sum of twelve thousand, two hundred and thirty-six dollars and ninety-six cents, local currency; and the rent of the same as stated in paragraph 18 of the complaint being equal-y fantastic and maliciously fixed by the plaintiff.

7. That the aforesaid contracts with reference to the above described property were true, real and lawful contracts and as such were entered into by the parties without thereby causing any damage or prejudice to any person.

8. That the price of the sale made on the 12th of Mar., 1884, by Francisco Enriquez in favor of Victoriano Reyes, was received by the estate of Antonio Enriquez and accepted by all of the latter's heirs without exception, and to their entire satisfaction.

9. The said sale made some eighteen years ago was lawful and well known to the parties interested therein, who expressed their conformity with the same more than four years ago.

18 For the reasons above stated the defendants pray the Court to acquit them of the complaint, declaring that the plaintiff is not entitled to have the deed in question set aside, or to the other relief sought by him, with the costs of this action against the plaintiff.

Manila, April, 1902.

(Sgd.) ALFREDO CHICOTE.

On the 8th day of May, 1902, counsel for plaintiff filed the following motion:

(Court and Title.)

To the Court of First Instance of Manila:

Now comes the plaintiff, by his attorneys, and in order to avoid lengthy discussions as to the legality of the ap-ointment of the plaintiff as administrator, and in order to join all of the parties interested in the said action, asks the Court for permission to file the attached amendments to his original complaint.

(Sgd.) MONTAGNE & DOMINGUEZ,
Counsel for Plaintiff.

MAY 8, 1902.

The filing of the aforesaid amendments is hereby allowed and it is ordered that plaintiff's complaint stands amended as required.

(Sgd.) ARTHUR F. ODLIN,
Judge of Court of First Instance of Manila.

(Court and Title.)

Amendments.

Comes now the plaintiff in the above entitled case, Rafael
19 Enriqez, and by leave of the Court first had and obtained, files his amendments to the complaint herein, as follows, to-wit:

Strikė out the name and title of the party plaintiff in said cause and insert in lieu thereof the following:

"Rafael Enriquez, in his own right and as administrator of the estate of Antonio Enriquez y Sequera, deceased. Antonio Enriquez, Trinidad Enriquez, Cayetano Enriquez, Rosario Enriquez, Gertrudes Enriquez Antonio Gascon, a minor, Plaintiffs."

Strike out after the title of said cause the first line of said complaint, and all of paragraph one thereof, and insert in lieu thereof the following:

"Plaintiff complains and al-eges:

1. That Rafael Enriquez is now, and during the year last past has been the duly appointed, qualified and acting administrator of the estate of Antonio Enriquez y Sequera, deceased."

Strike out paragraph 16 of plaintiff's complaint and insert in lieu thereof the following:

"16. That the plaintiffs herein and the defendant, Francisco Enriquez, are, and each of them is, the only surviving children and heirs at law of the said Antonio Enriquez y Sequera, deceased, except Carmen Enriquez, surviving daughter of deceased, and who is now absent in the Kingdom of Spain, and the plaintiff, Antonio Gascon, who is the only surviving child of Concepcion Enriquez, one of the surviving children of the said Antonio Enriquez y Sequera, deceased, and who is now also deceased."

(Sgd.) MONTAGNE & DOMINGUEZ,
Attorneys for Plaintiff.

Thereafter to wit on the 8th day of May, 1902, a subpœna was duly issued out of the Court of First Instance of the City of Manila requiring Victoriano Reyes, Francisco Enriquez, and Carmen de la Cavada de Enriquez to ap-ear in the said Court on the 9th of
20 May, 1902, at 9 A. M. to testify as witnesses in the above entitled action, which subpœna was duly served on the said witnesses by the Sheriff of the City of Manila on the said 8th day of May, 1902.

Thereafter Rafael Enriquez, the plaintiff in this case, presented the following petition to the Court of First Instance:

(Court and Title.)

To the Court of First Instance of Manila:

Comes Rafael Enriquez, one of the plaintiffs in the above entitled cause and states:

That Antonio Gascon is one of the plaintiffs in the said action; that the said Antonio Gascon is a minor, being at present absent from the Philippine Islands; that it is very convenient and of the utmost importance that the said Antonio Gascon be represented in this action by a person of character, intel-igence and integrity, as guardian ad litem. That the petitioner is an uncle of the said Antonio Gascon, being one of his nearest relatives in the Philippines.

Wherefore your petitioner asks that Mr. E. H. Lamme be appointed guardian ad litem of the said Antonio Gascon, minor, in the said action.

(Sgd.) RAFAEL ENRIQUEZ.

Manila, May 12, 1902.

Upon consideration of the foregoing petition, and the Court considering that the appointment asked for is proper and convenient;

It is ordered that Mr. E. H. Lamme be and he is hereby appointed guardian ad litem of the minor, Antonio Gascon, in the above entitled action.

(Sgd.) ARTHUR F. ODLIN, *Judge.*

Manila, May 12, 1902.

21 Thereafter plaintiffs filed a second amended complaint which is in the words and figures following:

(Court and Title.)

Plaintiffs, by leave of the Court first had and obtained, filed this, their second amended complaint, and complain and allege:

1. That Rafael Enriquez is now, and during the year last past has been the duly appointed and the acting administrator of the estate of Antonio Enriquez y Sequera, deceased.

2. That on the 5th day of March, 1883, prior to that date, and thereafter, until the death of the said Antonio Enriquez y Sequera,

as hereinafter alleged, the said Antonio Enriquez y Sequera suffered and was suffering, physical and mental illness of such a nature that deprived him continually of the use of his reason, and continually rendered — incapable of transacting and of ordering the transaction of ordinary business.

3. That on or about the 5th day of March, 1883, the defendant, Francisco Enriquez, with intent to deceive and defraud the said Antonio Enriquez y Sequera, and his heirs, forged and fabricated, and caused the forging and fabrication of a certain document, copy of which is not attached for the reason that the original is not in the pos-session of plaintiffs herein nor of any of them, in which document it was stated in terms that the said Antonio Enriquez y Sequera granted a general and special power and authority in favor of the defendant, Francisco Enriquez, making the said Francisco Enriquez his attorney in fact and authorizing him to represent the said Antonio Enriquez y Sequera in all matters and business in which the said Antonio Enriquez y Sequera might be interested, and conferring upon the defendant, Francisco Enriquez, the most ample power that could be conferred upon an attorney in fact.

22 4. That the said Antonio Enriquez y Sequera did not execute, and did not at any time authorize the execution of said document and said document has been at all times, and is false, forged, null and of no value whatsoever.

5. That immediately after the death of the said Antonio Enriquez y Sequera, on or about the 31st day of July, 1884, the said defendant, Francisco Enriquez, became the executor and administrator of the estate of the said Antonio Enriquez y Sequera, deceased, and from said date continued acting as such executor and administrator until about the latter part of the year 1900.

6. That on the 12th day of March, 1884, for a long time prior thereto and at the time of the simulated sale made by defendant Francisco Enriquez to defendant Victoriano Reyes as hereinafter stated, the said Antonio Enriquez y Sequera, deceased, was absent from the city of Manila and was temporarily residing in the Kingdom of Spain, where he continued to so temporarily reside until the time of his death.

7. That on the 12th day of March, 1884, for a long time prior thereto and at the time of the simulated sale made by the defendant, Francisco Enriquez, to defendant Victoriano Reyes, as hereinafter stated, the said Antonio Enriquez y Sequera, deceased, was the sole and exclusive owner, in the pos-session and entitled to the possession of that certain piece of real property situated in the city of Manila, Philippine Islands, at Calle Numancia, now commonly designated as Nos. 76 to 84 Calle Numancia, bounded on the front thereof by the said Calle Numancia and extending to the lands of Manuel Genato and bounded on the right side of its entrance by the lands of Don Manuel Genato, and on the left side of its entrance by Calle Urbiztondo.

8. That at the date aforesaid the said property was of the value of about 20,000 pesos and the said property is now of the value 23 of about 40,000 pesos.

9. That on or about the 12th day of March, 1884, the de-

fendant Francisco Enriquez, purporting to be the attorney in fact of the said Antonio Enriquez y Sequera, deceased. did fraudulently and with intent to cheat and defraud the said Antonio Enriquez y Sequera, execute an instrument of conveyance and did so fraudulently and with intent to cheat, as aforesaid, convey to the defendant Victoriano Reyes, all of the property aforesaid.

10. That the said conveyance so fraudulently executed by the said defendant, Francisco Enriquez, was not a genuine conveyance, but was a simulated one, entered into by and between the said Francisco Enriquez and the said Victoriano Reyes for the purpose of defrauding and cheating the said Antonio Enriquez y Sequera, deceased.

11. That no consideration of any kind whatever was paid by the defendant Victoriano Reyes or by anyone else, to the defendant, Francisco Enriquez, or to anyone else, for the conveyance aforesaid, nor for the said property.

12. That on or about the 5th day of April, 1884, and within a month after the execution of the conveyance aforesaid the defendant Victoriano Reyes at the instance and at the request of defendant Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, and for the purpose of cheating and defrauding the said Antonio Enriquez y Sequera, did execute an instrument of conveyance, and did convey to the said defendant, Carmen de la Cavada de Enriquez, all of the property aforesaid.

13. That the said conveyance executed by the said defendant Victoriano Reyes to the defendants Carmen de la Carvada de Enriquez was not a genuine conveyance but was a simulated one
24 and made and executed for the purpose of defrauding and cheating the said Antonio Enriquez y Sequera, deceased.

14. That the said defendant, Carmen de la Cavada de Enriquez, did not, nor did any one else, pay to the said Victoriano Reyes, or to anyone else, any consideration whatever for the conveyance last aforesaid, nor for the property aforementioned.

15. That the defendant, Carmen de la Cavada de Enriquez, now is, and at all times herein mentioned has been the wife of the defendant, Francisco Enriquez.

16. That the said Antonio Enriquez y Sequera, deceased, died testate on or about the month of July, 1884, at the Kingdom of Spain, leaving a will by which he left all of his property of which he died seized to all of his children share and share alike.

17. That the defendant, Francisco Enriquez, is the oldest surviving child of the said Antonio Enriquez y Sequera, deceased.

18. That the plaintiffs and the defendant, Francisco Enriquez, are the only surviving children and heirs at law of the said Antonio Enriquez y Sequera, deceased, with the exception of Carmen Enriquez, surviving daughter of said deceased, who is now absent in the Kingdom of Spain, and the plaintiff, Antonio Gascon, who is the only surviving child of Concepcion Enriquez, one of the children who survived the said Antonio Enriquez y Sequera, deceased, and who is now deceased.

19. That ever since the 5th day of April, 1884, the defendants

Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, have been in the exclusive pos-ession of the property aforesaid, and of the whole thereof, and have been collecting all of the rents and profits of said property, and have ever since, and are now, appropriating the whole of said rents and profits to their own exclusive use.

20. That the value of the rents and the profits of the property aforesaid have been, from the year 1884 to the year 1890, the sum of one hundred pesos per month; that the value of the said rents and the profits from the year 1890 to the year 1897 have been, and are the sum of 150 pesos per month; that the value of the said rents and profits for the year 1897 to the present time have been, and are, the sum of 200 pesos per month.

Wherefore plaintiffs pray judgment against the defendants and against each of them;

1. That the alleged power of attorney, alleged to have been executed by Antonio Enriquez y Sequera to Francisco Enriquez be declared false, fraudulent, null and void.

2. That the conveyance executed by the defendant, Francisco Enriquez, to the defendant, Victoriano Reyes, be set aside and declared null and void.

3. That the conveyance executed by the defendant Victoriano Reyes, to the defendant, Carmen de la Cavada de Enriquez, be set aside and declared null and void.

4. That the property aforesaid and the whole thereof be declared to be the property of the estate of Antonio Enriquez y Sequera, deceased.

5. That it be adjudged and declared that the defendants and each of them have no exclusive right, title, or interest, in and to said property or to any part thereof.

6. That plaintiffs, recover of and from the defendants, Francisco Enriquez and Carmen de la Cavada de Enriquez, the value of the rents and profits of said property in the sum of one hundred pesos per month from the year 1884 to the year 1890; for the sum of 150 pesos per month from the year 1890 to the year 1897; and for the sum of two hundred pesos per month from the year 1897 to date.

7. For such other and further relief as the Court may deem equitable and just.

8. For the costs of this action.

(Sgd.) MONTAGNE & DOMINGUEZ,
Attorneys for Plaintiffs.

Thereafter to-wit, on the 27th of May, 1902, a subpœna was duly issued out of the court of First Instance of the City of Manila requiring Victoriano Reyes, Francisco Enriquez and Carmen de la Cavada de Enriquez to be and appear before said Court on the 29th of the said month at 9 o'clock A. M. for the purpose of testifying as witnesses in the said cause, which said subpœna was served upon the said Victoriano Reyes, Francisco Enriquez and Carmen de

la Cavada de Enriquez, personally, by the Deputy Sheriff of the City of Manila.

On the 31st of May, 1902, a subpœna was duly issued out of the said Court requiring Francisco Marquez, of the City of Manila, to appear before said Court on the 2nd day of June, 1902, as a witness in the above entitled cause, which said subpœna was duly served on the same day by the Deputy Sheriff of the City of Manila.

27 On the 28th of May, 1902, counsel for defendants Francisco Enriquez and Carmen de la Cavada, filed the following amended answer:

(Court and Title.)

Come now the defendants, Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, and state:

That they specifically deny each and all of the allegations contained in paragraphs 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 20 of the complaint and admit the allegations contained in paragraphs, 5, 15, 16, 17, 18 and 19 in so far as they do not conflict with the allegations of their especial defense, to-wit:

1. That Francisco Enriquez is the testamental executor and the sole administrator, duly appointed as such, of the estate of Antonio Enriquez.

2. That by a public instrument, No. 108, executed upon the 27th of December, 1881, there was sold at public auction to Antonio Enriquez for the sum of 1,367 dollars, local currency, a certain piece of property described as follows: "A house and a lot upon which it stands on the Riverita, on the corner of La Barraca, in the District of Binondo; being bounded on the front thereof by the said Riverita; on the right by the property of Ceferino Gil; on the left by the said Barraca and on the back by the property of Manuel Callejas", which said property as at present described, is set out in paragraph five of the complaint.

3. That the said property formerly belonged to the estate of Francisco de Paula Enriquez, a brother of Antonio Enriquez; that on the 20th of December, 1880, it was sold at public auction for the sum of 1,367 pesos to Antonio Lorenzo Barreto, he being the highest bidder; that the said purchaser conveyed all his

28 rights in and to the said property to Antonio Enriquez, in whose favor the judicial conveyance was executed on the 27th of December, 1881.

4. That Francisco Enriquez, on the 12th of March, 1884, as attorney in fact for his father Antonio Enriquez actually sold and conveyed to Victoriano Reyes for the sum of 2,500 pesos, the aforesaid property and that *that* said Fancisco Enriquez received from the said Victoriano Reyes the agreed purchase price of 2,500 pesos.

5. That on the 5th day of April, 1884, Victoriano Reyes actually sold and transferred the said property to Carmen de la Cavada de Enriquez for the sum of 2,500 pesos which was the stipulated price.

6. That the value given the said property in Par. 6 of the complaint is simply arbitrary and intended to attract the attention of the court, for, as has been said, the property in question was

sold at public auction by the Court and appraised in the year 1881 for and in the sum of 1,367 pesos and notwithstanding the improvements herebefore made thereon and increased value of property of this kind, the said property has been appraised by the Board of Assessors in the sum of 12.236 pesos and 96 cents; and the rents estimated by the plaintiff as set out in paragraph 18 of the complaint is also fantastic, having been maliciously fixed at that figure by the plaintiff.

7. That the contracts above mentioned with reference to the property in question were real, true and lawful contracts and as such were entered into by the parties, without thereby causing any damage or prejudice to any person whatever.

29 8. That the price of the sale made on the 12th of March, 1884, by Francisco Enriquez, to Victoriano Reyes, was received by the estate of Antonio Enriquez and accepted by all of his heirs without exception, to their entire satisfaction.

9. That the said sale made some eighteen years ago was lawful, having been recognized as such by all of the parties in interest, who expressly confirmed the same over 4 years ago.

10. That Antonio Enriquez y Sequera did not suffer on the 5th of March, 1883, nor did he suffer until the time of his death, from a physical or mental infirmity of such a nature that continuously or periodically deprived him of his reason, or which rendered him either continuously or periodically incapable of ordering the administration of, or administrating his ordinary affairs.

11. That Francisco Enriquez has never fabricated nor forged, nor has he caused to be fabricated and forged, either with reference to Antonio Enriquez or to any other person any document and much less a general power of attorney.

12. That Antonio Enriquez y Sequera on the 5th day of March, 1883, solemnly, actually and positively executed freely and voluntarily the power of attorney referred to in paragraphs three and four of the complaint, wh-ch said document has at all times been and now is true, valid and binding, and never was, nor is now, false, fraudulent or null.

Wherefore the defendants Francisco Enriquez and Carmen de la Cavada de Enriquez pray the Court to acquit them of the complaint, declaring that the power of attorney executed on the 5th of March, 1883, by Antonio Enriquez is neither fraudulent nor null

30 nor void; that the conveyance executed by Francisco Enriquez to Victoriano Reyes is not void; that the conveyance executed by Victoriano Reyes to Carmen de la Cavada is not void; that the plaintiff is not entitled to the other relief sought in his complaint and that he be condemned to pay the costs of this action.

Manila, May 26th, 1902.

(Sgd.) ALFREDO CHICOTE,
Counsel for Defendants Francisco Enriquez and Carmen de la Cavada.

Endorsed: Filed this 28th day of May, 1902. (Sgd.) R. Heras,
Endorsed: It is hereby ordered that this paper be united to the

record of Case 474 and referred to the Judge of Part III of this Court. Manila, May 28th, 1902. (Sgd.) Arthur F. Odlin, Judge, Part II.

31 EXHIBIT "A".

Conveyance of a Brick and Stone Building and the Lot Upon Which it Stands, Executed by Francisco Enriquez, as Attorney in Fact for His Father, Antonio Enriquez, to Victoriano Reyes.

No. 172.—In Manila, this 12th day of March, 1884, before me, Miguel Torres, licenciate of law, and a Notary Public of this City, and in the presence of the witnesses hereinafter named, personally appeared Francisco Enriquez y Villanueva, of age, a resident of this city, and known to me to be such person, and having assured me that he is in the full enjoyment of his civil rights, and that he has the necessary legal capacity to execute this public instrument of conveyance as attorney in fact for a third party, nothing to the contrary to me appearing, said: That he executes this instrument in his capacity as attorney in fact of his father, Antonio Enriquez, according to a power of attorney given him on the 5th of March, 1883, and executed before the undersigned Notary, the said power of attorney bearing No. 130, the pertinent part of which reads as follows: "No. 130, in Manila, this 5th day of March, 1883, I Miguel Torres, licentiate of Law and a Notary Public of this City, having been called at the premises known as No. 4, Calle David, District of Binondo, of this City, there appeared before me and in the presence of the witness hereinafter mentioned Antonio Enriquez y Sequera, of age, Chief of the Administration of Finance, unemployed, property owner, residing at the said premises numbered 4, Calle David, of this City, and personally known to me; and having assured me that he had the necessary legal capacity to execute this power
32 of attorney, nothing to the contrary to me appearing, said: That he hereby grants and confers upon his son, Francisco Enriquez, a resident of this city and of age, as full and complete power as may be requisite and necessary, to in his name *instead* * * * buy, sell, mortgage, exchange, and lease all kinds of property, real or personal, of whatever nature, to redeem them for the price and under the conditions that he may deem convenient; * * * to execute and sign all public instruments, receipts and such other documents as may be necessary for the transaction of such business and the execution of such contracts and obligations as his grantor may have to transact or execute, all of which he shall do with all the requisites and solemnities required by the nature of each contract, performing all other acts as may be necessary for the administration of said property * * * so said Antonio Enriquez, in the presence of the witnesses to this instrument Ambrosio Aquino and Mariano Palacio, both residents of this city, of age and personally known to me; and having been informed by me of the rights which they had to read this instrument or have it read to them, I proceeded to read it to them in a loud voice, whereupon the said Don Antonio Enriquez ratified these presents, Federico

Gimenez Zoboli, who was present, an attorney at law, of age, a resident of this city and personally known to me, signing for and at the request of the said Antonio Enriquez, who, although he was in good health, was physically incapable of using his right hand, on account of paralysis, the aforesaid witnesses having also signed hereon, to all of which I certify,—Federico G. Zoboli—Ambrosio Aquino—Mariano Palacio—Before me Miguel Torres"—The foregoing agrees literally with the original power of attorney to which I certify.

33 And the said Francisco Enriquez further said:

1. That his father, and grantor, Antonio Enriquez, was the absolute owner of a brick and stone house and the lot on which it stands on the Riverita, in the District of Binondo, on the corner of La Barraca, bounded on the front thereof by the said Riverita, on the right by the property of Ceferino Gil, on the left by the said Barraca and on the back by the property of Manuel Callejas.

2. That the aforesaid property was bought by his said father for a valuable consideration at a judicial sale which was held on the 27th of December, 1881, by the judge of the Court of First Instance of Intramuros, the Honorable Eulogio Andujar, before the Clerk, Manuel Blanco, in the proceedings relating to the intestate of the deceased Francisco de Paula de Enriquez, Conde la Puebla de Portugal, as shown by a certified copy thereof exhibited to me and to which I have referred.

3. That no mortgage, lein or incumbrance whatever exists upon the said property as he will readily show if necessary by a certificate of the Registrar of Mortgages for the City of Manila to that effect.

4. That he has heretofore agreed to sell the said property and the land upon which it stands to Victoriano Reyes for the sum of 2,500 pesos, and that in pursuance of that agreement he hereby sells and transfers absolutely, the aforesaid property to the said Victoriano Reyes with all uses, easements, rights and actions thereunto belonging for the sum of 2,500 pesos, which he, Francisco Enriquez, acknowledges to have heretofore received in local

34 currency, to his entire satisfaction, with reference to the receipt of which he hereby waives whatever objection he might have on account of the money not having been actually counted, also waiving the two years which the law allows for the enforcement of that objection; and accordingly executes in favor of the purchaser the necessary receipt in aquittance for the aforesaid sum of 2,500 pesos; hereby transmitting and transferring to the said purchaser the absolute title and ownership of the said property that he may forthwith take possession of the same as his own legitimate property lawfully acquired, hereby binding his grantor to guarantee and defend this sale in accordance with law.

Victoriano Reyes being present, a resident of this city, of age, and personally known to me, said that he accepted the foregoing sale under the terms and conditions herein set forth obligating himself to comply strictly with the terms of the same insofar as they concern him, in accordance with law.

Finally both contracting parties stated that in this contract there has been no fraud or *lesion* whatsoever; that the 2,500 pesos is the

just compensation for the said property hereby sold, and that in the event that the said property be worth more or less than the amount paid therefor they hereby irrevocably make each other donations of whatever difference there may be, waiving the benefit of the laws relating to contracts in which there is *lesion* in more or less of half of the just price, and the period of four years which the law allows for bringing an action upon this ground, it being their desire that this contract be considered as complete and absolutely
35 consum-ated, to all of which the vendor binds all of the property of his grantor and the purchaser all of his present and future property.

So said the contracting parties in the presence of the witness to this instrument, Ambrosio Aquino and Mariano Palacio, both residents of this city, of age, and personally known to me, who having been informed of the right which they have to read this instrument themselves or have it read to them, all and each of them read the same, and ratified its contents, signing hereon with me, to which I certify.—Francisco Enriquez.—Victoriano Reyes.—Mariano Palacio.—Ambrosio Aquino.—Before me: Miguel Torres.

The foregoing is a true copy of its original.

(Sgd.) ANTONIO SANTOS,
Clerk in Charge of the Archives of Protocols.

36 EXHIBIT "B."

Conveyance of a Brick and Stone House and the Lot upon Which it Stands, Executed by Victoriano Reyes to Carmen de la Cavada.

No. 197. In Manila, District of Santa Cruz, this 5th day of April, 1884, before me, Eustaquio Villablanca de Mendoza, a Notary Public of this city and in the presence of the witnesses hereinafter mentioned, personally appeared Victoriano Reyes, of age, and a resident of this city, as vendor, and Carmen de la Cavada y Salaver de Enriquez, also of age and a resident of this city, as vendee, the latter being accompanied by her husband, Francisco Enriquez and she having obtained the necessary license from her said husband to execute this instrument, to which I certify, all of them being personally known to me, the said Victoriano Reyes stated that he was the absolute owner of a house and the lot upon which it stands on the Riverita in the District of Binondo, corner of La Barraca, being bounded on the front thereof by the said Riverita, on the right by the property of Cerferino Gil, on the left by the said Barraca, and on the back by the property of Manuel Callejas.

That the above described property was bought by him from Francisco Enriquez, here present, as attorney in fact for his father, Antonio Enriquez, for the sum of 2,500 pesos, according to public instrument executed on the 12th of last month before the Notary Public of this City, Miguel Torres, which said instrument is recorded
37 on pages 626 to 631 of the Protocol of the said Notary and I hereby certify that a copy of the said instrument exhibited to

me, duly attested, was read and initialed by me and will be attached to these presents.

That as the absolute owner of the above described property he hereby sells and conveys the same, together with the lot upon which it stands, and all the uses, easements, rights and actions thereunto belonging, to the said Carmen de la Cavada Solaver de Enriquez, for the aforesaid sum of 2,500 pesos which the vendor acknowledges to have heretofore received in local currency to his entire satisfaction; but such payment, although true, not having been made at the time of the execution of this instrument, he expressly waives any objections to the actual counting of the money, waiving also the period of two years which the law allows in which to interpose such objection; and he accordingly hereby executes in favor of the said vendee such receipt or acquittance as may be necessary, for the said sum of 2,500 pesos, transferring to her the title and ownership to the said property with the land upon which it stands, that she may forthwith take possession of the same and dispose of it as her own property duly and lawfully acquired.

The vendor further states that no mortgage or lein exists upon the said house and lot, binding himself to defend and guarantee this sale whenever required in accordance with law.

The vendee, Carmen de la Cavada y Salaver de Enriquez, with the permission of her husband first obtained as aforesaid,
38 having been duly informed of the contents of this conveyance to her by Victoriano Reyes, said:

That she accepts the said sale under the terms and conditions above stated and that she hereby binds herself to comply with the same insofar as it concerns her by reason of this acceptance.

Finally vendor and vendee hereby declare that there has been no fraud or *lesion* in the execution of this contract and that the 2,500 pesos is a just and fair value of the property and lot thus sold; and that if the same is worth more or less than the stipulated amount they mutually donate to each other whatever difference in value there may be, hereby expressly waiving the provisions of law relating to contracts in which there is lesion in more or less than half of what is considered the just value of the property, and the four years which the law fixes for enforcing a claim on this ground, it being their desire that this contract be considered as absolutely perfect and consum-ated, the vendor binding himself with all of his property, present and future, and the vendee with her own property, also present and future, to the faithful performance thereof.

So said the contracting parties in the presence of the witnesses Quintin Joaquin and Pelagio Santos, residents of this city, of age, and personally known to me, and they all having been informed of the right which they had to read this instrument, each and every one of them read the same, and ratified the contents thereof, signing hereon with the husband of the vendee, to all of which I certify.—Carmen de la Cavada de Enriquez.—Francisco Enriquez.—Victoriano Reyes.—Quintin Joaquin.—Pelagio Santos. Before me.—
39 The foregoing is a true copy of its original.—Antonio Santos, Clerk in charge of the archives of protocols.

EXHIBIT "C."

Page 22 of the document presented by the prosecution in case No. 21 of the Court of First Instance of the District of Binondo against Francisco Enriquez for making a false statement in a public instrument.—Manila, December 30, 1882.—My dear Pepen:—I have before me your favors of the 20th of October, 21st of December last, and the 28th of February and the photograph of your first born, which is the very picture of you and we would have been very glad of embracing him were we not so far away. A brief statement of the horrible misfortune which has befallen us during the last year will explain the reason for my not having written before. It was my desire to send you our picture and that of the children and for this reason I had not answered your letter of the 28th. At that time poor mother was already very ill. We were by her day and night and we have suffered very much seeing her suffer from her illness which is most cruel, this being something we could not help, but she has borne her troubles with the resignation and patience of a saint. However we finally decided to go to the photographer and we did go to him twice but the proofs were certainly very bad and we have been unable to go to the photographer again. After that the cholera came. As you know, it produced a horrible panic in the whole town. There were days when more than seven hundred persons died in Manila alone. You would see nothing in the streets but wagons carrying the bodies on top of each other and we had not gotten entirely over the cholera when the typhoon of the 20th of October struck the town, causing more damage than the earthquake of 1880 and whatever was left was destroyed by another typhoon a week later, not so destructive as the former one. But you might say that all these misfortunes are no reason why I should not have written you and you may be right, yet we have had still another misfortune for it seems that the former were not bad enough. I did not wish to say anything to you about this before. To-day however I can do so without the horrible circumstances brought about by the illness which threatened to carry our poor father to the grave. A few days after the first typhoon he suffered from an attack of paralysis of the whole right side of his body which was complicated by a hemorrhage which entirely deprived him of the motion of his body and of his speech, and he was in such a critical condition that we lost all hope of saving him. After several weeks he commenced to improve, although very little, but thank God he has considerably improved during the last fifteen days, and in view of the fact that he can get out of bed and walk about the house with the assistance of others, I decided to remove him to the house on the Escolta near the river and thus afford him a chance to forget the unpleasant recollections of the other house which have contributed in a great measure toward his mental depression, from which he suffered immediately after the death of our poor mother. But notwithstanding our efforts in taking him immediately out of this house and to induce him to spend a winter in Europe, it was

impossible for us to do so for reasons too lengthy to state here. Since he was removed to the house on the Escolta he has improved much mentally and with the aid of Tula or any of the girls he can
41 walk about the house. Although he has not as yet recovered his speech he can pronounce a few words distinctly and the doctor hopes that he will be able to speak shortly. He eats at the table with us now while about a week ago he had to be fed. Undoubtedly he has recovered rapidly in a few days and at this rate I hope that by the month of January next he will be able to walk without assistance. Our good uncle Manolo has been of great service and consolation to him, having helped him in every thing. The trip of father to Spain has been finally decided upon and he will probably leave the Islands in March or April next. Although in Manila I have a very small salary, being overburdened with work, I have decided not to return to the provinces and give up whatever prospects I have, for I do not want to separate from father. Mother having died, and you not being here, I thought it my duty not to abandon our father, and so I have remained here, having taken charge of all of his affairs, which are not few. These matters, together with the work of the Court, leave me no time for rest; but I would be satisfied if father would only live and recover his health entirely. I am very glad that he is going to Spain and that you are going to remain there, because you will be able to take care of him. Although Manila is a place of misfortunes and calamities, it has for me nothing but sad and horrible recollections and I would only be too glad to lose sight of it. But unfortunately I can not help but stay here and look after our interests which cannot be safely intrusted to anybody else. You can imagine how much I have suf-
42 fered with such horrible losses. There were times when I thought I was going to lose my mind. At the same time I feared that I would become ill at such a critical time, because father being so seriously ill I could not leave him alone a single moment and I had to spend about a month practically without sleep when I had already spent so many nights without sleep making superhuman efforts to assist father. Although I had become so accustomed to going without sleep that it was immaterial whether I slept or not, I continuously suffered and am still suffering from headache. It is after all a consolation to me to have such a good wife as Heaven has given me. She has shared with us our misfortunes with unprecedented abnegation. She was by the side of our mother until the last moment. She having been the one who closed mother's eyes. She has taken as much care of father as if he was her own father. She has comforted me and prevented my abandoning myself to the most complete desperation. For reasons which cannot be explained I failed to meet Mr. Ramirez when I returned from the provinces, which was about the time he left for that country, but when he returned to the Islands as I was so anxious to hear from you I tried to meet him and have been good friends with him since. He intends to take his wife to that country in March. You will then have an opportunity to meet her. She is all goodness, although she has not as good judgment as your sister-in-law. If at that time I can do

so I will send you some money through him for Morales,
43 saying that it is intended for the payment for a painting.
We have received your letters addressed to father, dated the 2nd and 17th of November last. The first of these letters we have not read to him for fear that it will make him sad, but the second letter we have read to him for you simply repeat therein what you have said so many times about his trip to Europe. However he burst into tears and had a bad day. How glad he will be when he embraces you again, but please do not mention anything about mother rememberance of whom is the cause of his continuous suffering. Cayetano is already an army officer and Antonio, who is so studious, has a position in one of the foreign houses of this city but he only gets forty pesos a month which I consider a very small salary in view of the position of trust which he holds. He is however very much liked by his employers and it is to be expected that they will soon increase his pay. It will be quite a great satisfaction to see his situation legalized. Although I do not know any thing about the matter in detail I approve your action in telling me that you have two children for in case of misfortune, which God forbid, as long as I live they will lack nothing. I will take the bread out of my own mouth to give it to them, and will give them all they may be entitled to. We would like to have a picture of your other child, and you will have ours by the first opportunity. Our kisses to the baby and you receive an embrace from Carmen and from your loving brother, Francisco.

I certify that the foregoing is a true copy of its original.

(Sgd.) J. MacMICKING.
[SEAL OF THE COURT.]

44 EXHIBIT "E".

Page 229 (209) (1) to page 231 (211) (3) inclusive of the second piece of the record.—Seal: "Year 1898—one peseta".—another seal.—No. 1,697,404.—Translation.—We the undersigned hereby certify that Antonio Enriquez, 63 years of age, resident of the city of Paris, Rue Langue No. 94, has suffered an attack of cerebral hemmor-hage with paralysis, persistent, of the whole of the right side; that on the 2nd of June, 1883, he suffered a fracture of the neck of the right femur and will never recover the little power of motion which was left to him as a result of an attack of paralysis. That in consequence of these various accidents, Antonio Enriquez is suffering from an attack of cerebral softness, of slow progress, marked by a noticeable loss of memory on account of extreme sensibility which manifests itself by frequent shedding of tears without any reason for it and generally by a weakness of all of his mantal faculties. We are accordingly satisfied that Antonio Enriquez is incapable of managing or administering any kind of business. Oct. 5, 1883.—Dr. Horteloup, 36 Rue de la Victoire, Paris, Surgeon of the Urban Hospitals and General Secretary of the Society of Surgery and a member of the Legion of Honor.—Dr. J. Dubriesay,

6 Rue Marengo, Paris.—Member of the Consulting Board of Hygiene of France and of the Council of the Hospitals of Paris.—Member of the Legion of Honor.—Carpentieur, Doctor of Medicine.—Viseed by me, the Mayor of the First District of Paris for the Legalization of the signature of Dr. Dubriesay.—The Mayor—V. Banous.—Seal. —Viseed by me the Mayor of the 9th District of Paris for the legalization of the signature of Dr. Hortaloup.—Paris. Oct. 11, 1883.— E. Ferry. Seal—Viseed for the legalization of the signature of Dr. Carpintieur on the other page. Paris, November 6, 1883.—The Mayor of the 17th District.—Game.—Seal.—Viseed by this Consulate of Spain as to the genuineness of the signatures of E.
45 Ferry, V. Danous and Game, Mayors of the 9th, 1st and 17th Districts, respectively. Paris, November 13, 1883.— The Consul—A. Rodriguez.—Seal—No. 3807.—Viseed by the Minister of State for the legalization of the signature of A. Rodriguez, Consul of Spain in Paris.—Madrid, Oct. 26, 1898.—By the Secretary—The officer in charge of the Chancelor's Office.—M. de Capegua.—Seal—The Chief of the Bureau of Interpretation of Languages of the Ministry of State—Do hereby certify that the foregoing translation is a true and literal translation of a certain document in French exhibited to me for this purpose. Madrid, November 9, 1898.—Manuel de Labia. Fees in accordance with the tariff, ten pesetas. Recorded on Page 80, No. 554—1898—Seal: Minister of State.—Department of International Languages—O. K.—In the absence of the Chief of the Department.—The First Secretary.—M. de Capegua.—For the legalization of the signature of M. de Capegua, Secretary of the Ministry of State at Madrid.—British Consulate.— Madrid, this 10th day of November, 1898.—Seal: "Consular Service". Then follows and illegible signature.

EXHIBIT "F".

"Office of the Commanding Officer of Marine, for Province of Manila."

In reply to your favor of the 27th instant, I have the honor to inform you that according to the list of passengers on file in this department, of the Mail Steamer "Barcelona" which left this port for Spain on the 1st of April, 1883, the name of Antonio Enriquez, Chief of Administration, appears as *as* a passenger.

Respectfully,

(Signature illegible.)

Manila, Dec. 31, 1897.

To the Judge of the Court of 1st Instance of the District of Binondo.

46 EXHIBIT "G".

Power of Attorney Executed by Antonio Enriquez in Favor of His Son Francisco.

No. 130. In Manila, this 5th day of March, 1883, I Miguel Torres, licentiate of law and a notary public of this city, having been called to the house No. 4 Calle David, District of Binondo of this City, there appeared before me and in the presence of the witnesses hereinafter mentioned Antonio Enriquez, of age, Chief of Administration of Public Finance, unemployed, property owner, a resident of this City and domociled at the aforesaid house on Calle David, No. 4, and personally known to me; and having assured me that he had the necessary legal capacity to execute this power of attorney, nothing to the contrary to me appearing, said that he hereby and in the manner hereinafter set forth confers and grants full and complete power and as sufficient as may be required, to his son Francisco Enriquez, a resident of this city and of age, to in his name instead perform all the acts and represent him in all matters concerning him, either judicially or extrajudicially, as may be required; and for this purpose he confers upon him ample power to administer his property and look after the same with the greatest care and zeal, leasing them for the price, for the time and under the conditions which he may deem convenient, collecting the rent and products therefrom, ejecting or ousting tenants and admitting others in their place; to claim, collect and receive whatever amounts of money, values or other property that may be due him by any person or corporation; to demand an accounting from whomsoever the same should be required, approving those which he may deem
47 just and rejecting such as he may consider otherwise, stating his objections thereto and demanding such indemnity as may be proper; to draw whatever amount he, the said grantor, may have in the banks of this city, collecting the interest thereon and renewing or otherwise disposing of the letters of payment in the manner and for the price and under the conditions which he may deem convenient; to make new deposits in his own name for such time as he may deem proper; to pay what he is really bound to pay and to collect all that he has a right to collect, giving the necessary receipt and letters of payment or other documents which may be required and demanding for the sums by him disbursed the necess-ry receipts from the payees; to buy, sell, mortgage, exchange and lease all kinds of property, real or personal, lands or buildings, releasing any mortgage or incumbrance on the same for the price and under the terms and conditions that he may deem convenient; to loan or borrow money with the necessary security; to sign promissory notes, warrants and all other kinds of documents, giving him full power to negotiate the same whenever it may be convenient; to draw letters of exchange and to accept and protest the same in due time whenever proper; to buy or sell shares in any company or corporation whatever; to discount promissory notes in the Spanish-Filipino

Bank and in the other banks of this city; to draw checks on the said banks, to intervene in the rendition of account-current, to attend with his voice and vote the meetings which may be held; to negotiate the shares which he may have in the said banks and to perform all other acts which he may deem necessary and convenient for the interest of the grantor.

48 To collect, receive and take charge of whatever property may belong to him, either by inheritance, legacy or any other source; to intervene in any testate or intestate proceedings in which his said grantor may have an interest, as well as in the formation of inventories and in the settlement, appraisal and partition of estates and for this purpose to appoint experts, appraisers and all other persons who should take part in these transactions.

Compromise and compound all questions and differences which may arise with reference to the same; to attend the meeting of creditors in which his said grantor may be interested, approving what the majority of the said creditors may decide or giving his personal opinion and protesting against the decisions of such creditors, procuring such evidence as may be necessary to compromise or otherwise submit to arbitration all the claims and actions which his grantor has now pending or which may hereafter arise, hereby promising to abide by the decision of such arbitrators, paying whatever penalty may be imposed, executing the necessary instrument of settlement and performing all other acts with reference thereto as may be lawful.

To execute and sign such public instruments, receipts and documents, as should be necessary in connection with the transactions, contracts and obligations in which the grantor may be interested, which said instruments, receipts and documents shall be executed with the requisites and solemnities which their particular

49 nature may require, performing such other acts as may be necessary to a proper administration.

Finally the said grantor confers upon the said attorney full power to represent him in all judicial matters, whether civil, criminal, administrative or otherwise, which he has or may have and whether they involve questions of fact or law, and for this purpose to appear before any court, public authority or proper department, filing such complaints, answers, petitions and documents as may be necessary; to hold and attend acts of conciliation, verbal actions, actions for misdemeanor, executive, civil and ordinary actions of whatever nature; to offer evidence and witnesses, to impeach the latter and contradict their statements; to have depositions taken; to accuse, challenge and sign articles; to institute incidental proceedings and proceedings in intervention, to give oath, accept service of citations, summons and orders; to secure attachments, dissolution of attachments and the sale of property at public auction; to appoint experts, including referrees in case of disagreement; to hear interlocutory orders and final judgments, to abide by the same or to appeal therefrom and prosecute such other remedies, ordinary or extraordinary, as may be necessary, in the manner prescribed by law, to a complete determination; finally to perform all other acts that his grantor himself would perform if he intervened directly

in the said transactions; and for this purpose he grants and confers to his said attorney unlimited power, binding himself with all of his property, present and future, to maintain and defend whatever his said attorney may do under and by virtue of this power, with full power of substitution and revocation.

So said the grantor in the presence of the witnesses to this instrument, Ambrosio Aquino and Mariano Palacio, both residents of this city, of age and personally known to me; and they all having been informed of the right they had to read this instrument themselves or have it read to them, I proceeded to read it aloud at their request, whereupon the grantor ratified its contents, Federico Jimenez Zoboli, an attorney of this city, of age and personally known to me, having signed for the said grantor at the latter's request, the said grantor, Antonio Enriquez, not being able to sign himself because although in good health was physically incapable of doing so on account of his inability to use his right hand which was paralized, the witnesses above mentioned having also signed in my presence, to all of which I certify.—Federico G. Zoboli.—Ambrosio Aquino.—Mariano Palacio.—Before me, Miguel Torres.—The foregoing is a copy of its original. (Sgd.) Antonio Santos.—Clerk in Charge of the Archives of Protocols.

EXHIBIT "H."

to which in all justice is entitled. He is the first of the mayors entitled to promotion, but the justice of man is like a bird in the air.

Receive an embrace from your brothers and many tight ones from your mother and from your father.

ANTONIO.

P. S.—Antonio continues very studious and behaves well in Singapore. As I have no friend there whom I could bother I send him money by draft for his expenses, which money he deposits in the bank on account current like a man of business and every month he sends me a detailed account of what he expends and what he pays the Director of the College. Would to God that he will continue as heretofore and that he may attain what we all so earnestly desire. He is the one principally interested. He has already finished the English Grammar and is now practicing on translations and dictation.

EXHIBIT "I."

No. 543.—In the City of Madrid, this 27th day of October, 1888, before me, Manuel de Bafarull y de Palau, Doctor of Civil Law and a Notary of the Illustrious Association of Notaries of the Territory of the Supreme Court of this City and a resident thereof, personally appeared, Rosario Enriquez y Villanueva, of age, a widow, pensioner and a resident of this city, according to her personal cedula of the 9th class No. 2496, dated Aug. 10th last.

Gertrudes Enriquez y Villanueva, of age, single, without any par-

ticular occupation or profession and a resident of this city according to her personal cedula of the 8th class, No. 2498, dated Aug. 8, last.

The said Rosaria and Gertrudes Enriquez y Villanueva assured me that they had the necessary legal capacity to execute this instrument, as in my judgment they had; and called upon me to take their depositions as follows:

That their father, Antonio Enriquez, suffered in the month
52 of October, 1882, a cerebral hemorrhage which brought about the paralysis of the whole of the right side of his body and the loss of his speech and mental faculties. That he somewhat recovered from this attack, being able to speak a few words with great difficulty and walk about the house with the assistance of some other person; but that his mental faculties remained like those of a child, he never having recovered them again, and that in this state of incapacity he continued until the time of his death in the city of Madrid on the 31st of July, 1884, which was brought about by another cerebral hemorrhage which was the third attack he had suffered.

That with the consent of their brothers, their brother Rafael accompanied their father to Paris in order to consult the doctors of that capital of France as to the most advisable treatment for their father's infirmity. That their father continued in Paris until the month of October, 1883, when he returned to Barcelona where five of their sisters were living at the time. That their father was accompanied by one of the b-others and their uncle, the Marquis of Villacastel, and their sister, Carmen, who had gone to Paris in order to accompany their father on his return to Spain.

That their brother Rafael only staid with his father six months because when the latter returned to Barcelona, their brother Rafael continued living in Paris with his children for about five years without returning to Spain. That they were continuously with their father excepting the five months which he spent in Paris and can testify with reference to this period of his illness and accordingly say that his mental condition since the month of October,
53 1882, when he suffered the attack of cerebral hem*m*orrhage until the day of his death on the 31st of July, 1884, was null and he was unconscious of his acts. And for these reasons deponents believe that he necessarily acted like an automat*um* in the execution of the deed of sale of the house on Calle David, No. 9, in favor of his daughter-in-law, Carmen de la Cavada, as well as in any other transactions in which he may be claimed to have taken part after he was taken ill, having lost all traces of will power and being therefore absolutely subject to the will of his children.

They further stated that Carmen de la Cavada not having brought any property into the marriage with their brother Francisco because she was poor and her parents were poor, as it is well known in Manila, she could not have had enough money to buy the said house nor any property belonging to the estate of their parents which she might have thereafter acquired. That they did not know that their father had executed in Manila a deed of sale of the house on Calle David No. 9 and that it was only recently that they learned that their

brother Francisco as the administrator of their father's estate had sold houses on Calle Fundicion, No. 9, and Calle Numancia, No. 10, on the Riverita; and that Rosario and Cayetano, knowing that when their father left for Spain there were more than 30,000 pesos in cash in the safe, their brother Francisco told them that the money belonged to the estate of the Conde de la Puebla and should be paid to the latter's heirs, and that he could not use that money for repairs to the house on Calle Palacio, No. 3.

So said the deponents as per memorandum furnished me,
54 signing herein in the presence of the witnesses, who also subscribed this instrument, Juan Cabezali y Rodriguez and Jaime Reventos Puig, residents of this city, who, as well as the deponents, have read this document themselves and ratified its contents, to all of which I the undersigned notary certify.—Rosario Enriquez.—Gertrudes Enriquez.—Juan Cabezali.—Jaime Reventos.

55 Thereafter to-wit, on the 2nd day of June, 1902, counsel for the defendants, Francisco Enriquez and Carmen de la Cavada de Enriquez, filed the following motion: in the Court of First Instance of the City of Manila in the above entitled action:

(Court and Title.)

Comes now Alfredo Chicote Beltran, as attorney for the defendants Francisco Enriquez and Carmen de la Cavada de Enriquez, and states:

That the trial of this case has been set for this day at nine o'clock A. M.; that counsel is unable to be present, he having to attend the examination also set for this day by the University of Santo Tomas, of which University he is a professor; that he has stipulated with counsel for the other side that the trial of this case be continued to another day.

Wherefore your petitioner prays that the trial of this case which has been set for to-day be continued to another day.

Manila, June 2, 1902.

(Sgd.) ALFREDO CHICOTE.

No objection to trial being continued to June 3rd, 1903.

(Sgd.) A. A. MONTAGNE.

Approved: Trial continued to the 3rd of June,

ODLIN, *Judge*.

Thereafter to-wit on the 4th of June, 1902, citation was duly issued at the request of counsel for the defendant Enriquez for the appearance of the witnesses Venancio Ruiz, Bruno Vilamala, B. Hatmann, Enrique Barrera, Eustaquio V. de Mendoza, Mariano Garcia del Rey, Carmen de la Cavada and Luis Quintos, which said subpœna having been duly served on the same day by the
56 Sheriff of the City of Manila.

Then follows a statement signed by counsel for defendants which reads:

Don Francisco Enriquez hereby also offers in evidence the following documents introduced by plaintiffs:

1. Document "A", Instrument No. 172 and all parts thereof.
2. Document "B", Instrument No. 197 and all parts thereof.
3. Document "C", Letter dated Dec. 30, 1882, all parts thereof.
4. Document "G", Instrument No. 130, and all parts thereof.
5. Document —, Instrument No. —, relating to the sale of the house on Calle David No. 9.

Then follows Document No. 1 which reads:

No. 708.—1st Copy—Deed of sale of part of the estates of Antonio Enriquez and Ciriaca Villanueva, deceased, executed by Jorge Enriquez as an heir to the same, in favor of Victoriano Reyes for the sum of 7,000 dollars local currency.—Before the Notary Public, Enrique Barrera y Caldez, of Manila, November 14, 1885:

No. 708.—In Manila, this 14th day of November, 1885, before me, Enrique Barrera y Caldez, Doctor in Civil and Canonical Law and a Notary Public in and for this city, and in the presence of a competent number of witnesses whose names appear at the end of this instrument, personally appeared, as vendor, Jorge Enriquez, a resident of Daet, Province of Camarines Norte, and temporarily residing in this city, of age, and personally known to me, with personal cedula of the 6th class No. 900, issued by the Sub-Delegation of Public Finance of the said Province of Camarines Norte for this Fiscal year; and the vendee, Victoriano Reyes, a resident of this city, of age and personally known to me, with per-
57 sonal cedula of the 6th class No. 407, issued by the Administration of Public Finance of this Province, in this Fiscal Year; and having assured me that they have the necessary legal capacity to execute this instrument of sale, nothing to the contrary to me appearing, the said Jorge Enriquez, stated:

1st. That he is a legitimate son of Antonio Enriquez and Ciriaca Villanueva, both deceased, and as such entitled to a share of the property of the estate left by them when the same are devided among their children; 2nd. That although the property of the said estates is still undivided there is no doubt as to his being entitled to a share of the property, and there being ten heirs, he is entitled to one-tenth of the inheritance; 3rd. That he having made a fair estimate of the value of all the property to which he is entitled he has come to the conclusion that the most that he will have a right to demand will be seven thousand pesos; 4th. That it being difficult and even disadvantageous to him to demand at this time the share to which he is entitled, considering the present condition of finances in the Archipelago, for to do so would cause great losses, most of the property consisting of real estate; and further that this could not be accomplished in a short time for the reason that it would be necessary to make a partition and most of the heirs are residing in Europe, while others are still minors; but he being in need of money to meet urgent demands, has decided to sell his share in the estate as one of the heirs and having heretofore entered into an agreement to this effect with Victoriano Reyes, who accepts the said sale, hereby

says: 5th. That he hereby, and in the most solemn manner
58 sells and transfers to the said Victoriano Reyes this share and interest to which he is entitled in the estate of his deceased father, Antonio Enriquez, and in the estate of his deceased mother, Ciriaca Villanueva, for the sum of 7,000 dollars, local currency, which he acknowledges to have received at the time of the execution of this instrument, from the vendee, Victoriano Reyes, in notes of the Spanish-Filipino Bank, to which I the undersigned Notary certify, hereby executing to the said vendee a full receipt therefor, acknowledging to have received the said purchase price to his entire satisfaction. 6th. This transfer and sale, relating as it does, to the whole share to which the vendor is entitled from the estate of his parents, it should be understood to include all the rights and actions which he may have with reference to the real as well as the personal property, of whatever kind, which exists or might exist in his favor as such heir, which said rights and actions the vendor hereby transfers to the vendee, authorizing him by these presents to take possession of the same, either judicially or extrajudicially, if possible, otherwise to claim and demand the same, conferring upon him ample and sufficient power as may be requisite and necessary for this purpose, that he may act as his agent if necessary, placing him, with reference to the inheritance in question, in the same condition and with the same rights to which the vendor is or might be entitled, hereby promising to make no claim to the property which he hereby alienates.

Although, as above stated, the vendor has made an estimate of the property to which he is entitled and which does not exceed the sum of 7,000 dollars, local currency, in value, he having been unable
59 to find a person who would be willing to buy the same for a larger sum, he agrees that 7,000 dollars, local currency, is the just and fair value of the property which he hereby alienates; but if the said property be worth more than the amount stated, he hereby donates the difference to the vendee, hereby waiving the benefits of law II, Title 1st, Book 10, of the Novisima Recopilacion, and the four years fixed by the same to bring an action for the recision of the contract or reduction of the price to its just value.

Victoriano Reyes, the vendee, thereupon stated that he accepts the sale and transfer to him of the rights and interest which his vendor, Jorge Enriquez, has in and to the said estate, under the terms and conditions hereinbefore set out.

To the faithful performance of this contract both parties bind themselves with all their property, present and future.

So said the contracting parties in the presence of the witnesses to this instrument, Valeriano Hernandez and Tomas Aguilon, of age and personally known to me, who having been informed of their right to read this instrument read the same and ratified its contents, signing hereon. To all of which, as well as to the identity and residence of the contracting parties and witnesses, I certify.—Jorge Enriquez.—Victoriano Reyes.—Valeriano Hernandez.—Tomas Aguilon.—Before me: Dr. Enriquez Barrera y Caldes.

The foregoing is a true copy of its original recorded on pages 2201-2205 of my public protocol for this year, to which I refer. And at the request of Jorge Enriquez I issue these presents on a sheet
60 of paper under my seal and signature in Manila the day above set forth.—Dr. Barrera y Caldes.—Notary's Seal.—True Copy. (Sgd.) Alfredo Chicote.

DOCUMENT No. 2.

No. 205.—1st Copy.—Bill of Sale executed by Victoriano Reyes in favor of Carmen de la Cavada, accompanied by her husband, Francisco Enriquez y Villanueva, of a share in the estate, for the sum of 7,000 dollars, local currency, before Enrique Barrera y Caldes, a Notary Public in and for the City of Manila, on the 15th of April, 1887:

No. 205.—In Manila, this 15th day of April, 1886, before me, Enrique Barrera y Caldez, Doctor of Civil and Canonical Law and a Notary in and for this city, in the presence of a competent number of witnesses whose names appear at the end of this instrument, personally appeared, Victoriano Reyes, a resident of this city, of age, with personal cedula of the 5th class No. 407, issued by the Administration of Public Finance of this Province during the present fiscal year, and Carmen de la Cavada, accompanied by her husband, Francisco Enriquez y Villanueva, of age and resident of this city, with personal cedulas of the 6th and 4th classes, Nos. 109046 and 1215, issued by the Administration of Public Finan*ance* of this Province during the present fiscal year.

The aforesaid parties are personally known to me, and after having assured me that they had the necessary legal capacity to execute this instrument of sale, nothing to the contrary to me appearing, the said Victoriano Reyes, stated:

That by a public instrument number 708 executed Nov.
61 14, 1885, before the undersigned Notary, the first copy of which I have examined, read and marked, he acquired from Jorge Enriques, by purchase, whatever title and interest the said Jorge Enriques had in estates of his deceased parents, Antonio Enriquez and Ciriaca Villanueva, that is to say one-tenth of the said estate, after the distribution of the property subject to partition, he being one of the ten heirs of the said deceased, which said one-tenth part of the estates he estimates at 7,000 dollars, local currency; that by virtue of the said instrument the vendor in this case acquired all the rights and actions which the said Jorge Enriquez had in the said estate, and that as the absolute owner of a share of the estates thus acquired he has heretofore agreed to sell the same to the vendee, Carmen de la Cavada, and in pursuance of the said agreement, he hereby sells and transfers absolutely and forever his said interest in the said estate to the vendee, Carmen de la Cavada, for the sum of 7,000 dollars, local currency, counted to his entire satisfaction, and I, the undersigned Notary, certify that the same was paid and received in my presence; and that he hereby transfers to the said vendee whatever right or interests he may have in the said estate, that

she may execute such acts of ownership as she is entitled to, and that by the delivery of this deed and other title papers, he makes actual delivery of the property, that the contract may be considered consum-ated, which said contract the parties hereto consider complete and consum-ated, the vendor declaring that the interest in
62 the estates which he hereby transfers is free of incumberance, he not having heretofore alienated, transferred or mortgaged the same, promising to guarantee and defend this sale provided he be called upon to do so within the time prescribed by law.

Carmen de la Cavada, with the permission of her husband, Francisco Enriquez, first obtained, to which I certify, stated that she accepts this instrument under the terms and conditions hereinbefore set forth and that she acknowledges the delivery of the interest in the said estate, which she hereby purchases, by the delivery to her *to* the first copy of this instrument.

Both contracting parties declare that the sum of 7,000 pesos is a just and fair value of the interest hereby transferred, but that if the same be worth more or less than the price agreed upon they waive whatever claim they might have to any difference existing, waiving also the time which the laws give them for the enforcement of such objection, hereby considering sale as a definite and irrevocable transfer; the vendee stating that she has not been induced or forced by any one to make this purchase but has made the same voluntarily for her own interest and advantage. To the faithful performance whereof the parties hereto bind themselves with their property present and future.

So said the contracting parties in the presence of the witnesses to this instrument, Valeriano Hernandez and Tomas Aguilon, of age, residents of this city and personally known to me and having been informed of the right which they had to read this instrument themselves they proceeded to read the same, ratifying its contents and signing hereon with me, to which I certify. I further certify
63 to the identity and residence of the contracting parties and the witnesses hereto.—Victoriano Reyes.—Carmen Cavada de Enriquez.—Francisco Enriquez.—Valeriano Hernandez.—Tomas Aguilon.—Before me: Dr. Enrique Barrera y Caldes.

The foregoing is a first copy of its original recorded on pages 833-836 of my protocol for the year 1886, to which I refer, and at the request of Carmen de la Cavada I issue these presents on a sheet of stamped paper, duly substituted by another sheet of the second class, Section 1 of the rules in force governing the use of stamped paper, and in conformity with Sec. 7 of the said regulations, under my hand and seal, in Manila, this 9th day of November, 1886, having made an entry to this effect on the margin of the original deed to which I certify.—(Sgd.) Dr. Enrique Barrera y Caldez.—Notary's Seal.—It is a true copy. (Sgd.) Alfredo Chicote.

DOCUMENT No. 3.

State Seal, 1901.—One peseta.—2nd Class.—No. 3135070.

I, Dr. Bartolome Robert y Yarzabal, Professor of the Faculty of Medicine of the University of Barcelona, etc., etc., hereby certify that in the year 1883 I treated Antonio Enriquez who had recently arrived from the Philippine Archipelago. He was suffering at the time from a hemorrhage of the internal capsule which brought about a hemiplege of the right side, the paralysis affecting more his power of motion than his sensibility; but notwithstanding the cerebral injury suffered by the patient and his advanced age, he retains the integrity of his mental faculties in a degree sufficient to control his own acts and enjoy moral liberty. An incidental fracture of the *femur,* of a traumatic origin, and the subsequent acute pneumonia which he suffered did no- tend in any way to aggravate his
64 cerebral affection.

In witness whereof I issue these presents in the city of Barcelona this 12th day of September, 1901.—Bartolome Robert. (Sgd.) Alfredo Chicote.

DOCUMENT No. 4.

No. 1.—12th class.—Year 1884.—75 C. of a pesta.—No. 3130483.

I, Manuel Gondar y de la Torre, the Priest temporarily in charge of the paris- church of San Geronimo el Real of thi- city of Madrid, Do hereby certify: That on page 20 of the register of interments of adult persons the following entry appears: In the City of Madrid this 30th day of July, 1884, there died at the age of 64 years Antonio Enriquez y Sequera, a native of Paris, the legitimate son of Francisco and Gertrudes, natives of Antequera, province of Malaga, and Granada, respectively, and the surviving husband of Ciriaca Villanueva y Solis, a native of Manila by whom he had eleven children named Rafael, Francisco, Jorge, Rosario, Carmen, Cayetano, Gertrudes, Antonio, Trinidad, Concepcion and Manuel; he resided at No. 59 Calle Alcala; he received the holy sacrament of the penitence, communion and extreme unction; he executed a will in Manila and for this reason it is unknown before what Notary it was executed and who are his executors, leaving as heirs his eleven children above mentioned; he had a fourth class funeral and his body was interred in the Sacramental de San Nicolas in one of the niches. In witness whereof I sign these presents. The foregoing is a true copy of the original entry on record to which I refer.—San Geronimo el Real of Madrid, this 22nd day of August, 1884.—Manuel Gondar.—Seal: "Parroquia de San Geronimo, Madrid."

65 The undersigned Notary of this City does hereby certify to the genuineness of the foregoing signature of Manuel Gondar y de la Torre, the priest temporarily in charge of the parish church of San Geronimo el Real. Madrid, Aug. 25, 1884.—(Sgd.) Zacarias Alonzo y Caballero.—The undersigned notaries of this city do hereby certify as to the genuineness of the signature and mark

of the Notary Zacarias Alonzo y Cabellero, affixed to the foregoing certificate. Madrid, Aug. 25, 1884.—(Sgd.) Magdaleno Hernandez y Sanz.—Francisco G. Archigo.—Seal: "Timbre Movil 1884, 10 C.".—Seal: "25th of Aug., 1884, Province of Madrid. Notarial Association of the Territory of Madrid. 3 pesetas. Nihil Prius Fide, No. 13578, Series 1."

Proceedings instituted by Francisco Enriquez for the appointment of guardians ad litem for his sisters Trinidad and Concepcion and testamental executor of his father, Antonio Enriquez, deceased, in the Court of First Instance of the District of Binondo.—(Sgd.) Alfred Chicote.

MANILA, *December* 30, 1882.

My DEAR PEPEN: I have before me favors of the 20th of October, 21st of December last and the 28th of February, and the photograph of your first born, which is the very picture of you, and we would have been very glad of embracing him were we not so far away. A brief statement of the horrible misfortune which has befallen us during the last year will explain the reason for my not having written before. It was my desire to send you our picture and that of the children and for this reason I had not answered your letter of the 28th. At that time poor mother was already very ill. We were by her day and night and we have suffered very much seeing her suffer from her illness which is most cruel, this being some-
66 thing we could not help, but she has borne her troubles with the resignation and patience of a saint. However, we finally decided to go — the photographer and we did go to him twice but the proofs were certainly very bad and we have been unable to go to the photographer again. After that the cholera came. As you know, it produced a horrible panic in the whole town. There were days when more than seven hundred persons died in Manila alone. You would see nothing in the streets but wagons carrying the bodies on top of each other and we had not gotten entirely over the cholera when the typhoon of the 20th of October struck the town, causing more damage than the earthquake of, 1880, and whatever was left was destroyed by another typhoon a week later, not so destructive, however, as the former one. But you might say that all these misfortunes are no reason why I should not have written you and you may be right, yet we have had still another misfortune as though the former were not bad enough. I did not wish to say anything to you about this before. To-day, however, I can do so without the horrible circumstances brought about by the illness which threatened to carry our poor father to the grave. A few days after the first typhoon he suffered from an attack of paralysis of the whole right side of his body which was complicated by hemorrhage which entirely deprived him of the motion of his body and of his speech, and he was in such a critical condition that we lost all hope of saving him. After several weeks he commenced to improve, although very little, but thank God he has considerably improved during the last fifteen days, and in view of the fact that he can get out of bed
67 and walk about the house with the assistance of others, I decided to remove him to the house on the Escolta near the

river and thus afford him a chance to forget the unpleasant recollections of the other house which had contributed in a great measure towards his mental depression, from which he suffered immediately after the death of our poor mother. But notwithstanding our efforts in taking him immediately out of this house and to induce him to spend the winter in Europe, it was impossible for us to do so for reasons too lengthy to state here. Since he was removed to the house on the Escolta he has improved much mentally and with the aid of Tula or any of the girls he can walk about the house. Although he has not as yet recovered his speech he can pronounce a few words distinctly and the doctor hopes that he will be able to speak shortly. He eats at the table with us now while about a week ago he had to be fed. Undoubtedly he has recovered rapidly in a few days, and at this rate I hope that by the month of January next he will be able to walk without assistance. Our good uncle Manolo has been of great service and a consolation to him, having helped him in everything. The trip of father to Spain has been finally decided upon and he will probably leave the Islands in March or April next. Although in Manila I have a very small salary, being overburdened with work, I have decided not to return to the provinces and have given up whatever prospects I had, for I do not want to separate from father, mother having died, and you not being here, I thought it my duty not to abandon our father and so I have remained here, having taken charge of all of his af-airs, which are not a few. These matters, together with the work of the Court, leave me no time for rest;
but I would be satisfied if father would only live and recover
68 his health entirely. I am very glad that he is going to Spain and that you are going to remain there because you will be able to take care of him. Although Manila is a place of misfortunes and calamities, it has for me nothing but sad and horrible recollections and I would only be too glad to lose sight of it. But unfortunately I can not help but stay here and look after our interests which cannot be safely intrusted to anybody else. You can imagine how much I have suffered with such horrible losses. There were times when I thought I was going to lose my mind. At the same time I feared that I would become ill at such a critical time, because father being so seriously ill I could not very well leave him alone a single moment and I had to spend about a month practically without sleep when I had already spent so many nights without sleep making superhuman efforts to assist father. Although I had become so accustomed to going without sleep that it was immaterial to me whether I slept or not, I continously suffered and am still suffering from headaches. It is after all a consolation to me to have such a good wife as Heaven has given me. She has shared with us our misfortunes with unparrellelled abnegation. She was by the side of our mother until the last moment. She having been the one who closed mother's eyes. She has taken as much care of father as if he was her own father. She has comforted me and prevented me from abandoning myself to the most complete desperation. For reasons which cannot be explained I failed to meet Mr. Ramirez when I returned from the province-, which was about the time he left

for that country, but when he returned to the Islands, as I was so anxious to hear from you, I tried to meet him and have been good friends with him ever since. He intends to take his wife to
69 that country in March. You will then have an opportunity to meet her. She is all goodness, although she has not as good judgment as your sister-in-law. If at that time I can do so, I will send you some money through him for Morales, saying that it is intended for the payment of a painting. We have received your letters addressed to father dated the 2nd and 17th of November last. The first of these letters we have not read to him for fear that it will make him sad, but the second letter we have read to him for you simply repeat therein what you have said so many times about his trip to Europe. However, he burst into tears and had a bad day. How glad he will be when he embraces you again, but please do not mention anything about mother, remembrance of whom is the cause of his continuous suffering. Cayetano is already an army officer and Antonio, who is so studious, has a position in one of the foreign houses of this city but he only gets forty pesos a month, which I consider a very small salary in view of the position of trust which he holds. He is however very much liked by his employers and it is to be expected that they will soon incre-se his pay. It will be quite a great satisfaction to see his situation legalized. Although I do not know anything about the matter in detail, I approve of your action in telling me that you have two children for in case of misfortune, which God forbid, as long as I live they will lack nothing. I will take the bread out of my own mouth to give it to them and will give them all they may be entitled to. We would like to have a picture of your other child, and you will have ours by the first opportunity. Our kisses to the baby, and you receive an embrace from Carmen and from your loving brother,—Francisco.—A true copy. (Sgd.) Alfredo Chicote. Pages 22-25.—documents introduced in evi-
70 dence by the prosecution in Case No. 21 of the Court of First Instance of the District of Binondo against Francisco Enriquez for making a false statement in a public instrument.

DOCUMENT No. 6.

BARCELONA, *May* 31, 1884.

MY DEAR QUICO: I have great pleasure in informing myself of the contents of your favor of the 4th of April last and of everything you say with reference to the houses. I approve all the repairs made by you with economy but I do not approve of your refusal to charge me with whatever you may be entitled for your personal work and zeal. I insist that you charge to my account at least what I offered you the last time I wrote to you with reference to this matter, unless you want to charge more.

I also approve of your idea with reference to the repair of the threatre and I thank you very much for the zeal and good judgment with which you were going to proceed with the work at an estimated cost of two thousand pesos. I do not know where you are going to get the money from.

We expect every moment the arrival of Rosario and Cayetano whose coming we applaud. We will wait for them here so that we may go together to Madrid.

I enclose here my answer to Jorge who has certainly given me some good news about the development of the mine, telling me that he expects to begin to dig out gold soon. I am improving, although very slowly.

71 I appreciate and return the embraces to Carmen and her children and you receive an embrace from your father who loves you very much.

For Father: Tula.—It is a true copy. (Sgd.) Alfredo Chicote.

DOCUMENT No. 7.

PARIS, *Feb.* 9, 1883.

MY DEAR QUICO: I received your letter of the 30th of December at a time when my soul was oppressed by disappointments and misfortunes, and when I read it I had to weep for it seemed that, Providence still has compassion on us, sparing father's life.

I wrote to you and I told you to get Cembrano and all the persons around you, using every means within your power to induce him to come immediately and leave that house because I anticipated what was going to happen to him. I just imagined how much father must have suffered seeing himself alone without mother, surrounded by objects which reminded him of her. I was absolutely convinced that it would be impossible for him to bear all this suffering without succumbing. I told Pardo and I told everybody else about it and as soon as I ceased to receive letters from him, it never occurred to me to ask whether he was sick but whether he had died, and pleaded his death be not concealed from me. Hence the reason why in all my letters I always said something about his coming to this country as the only way to save him and to avoid what has finally happened. Fortunately his life has been saved. I am very glad that you did not read to father any of my letters which could have possibly affected him, for I have said many things under stress of pain and

72 sorrow for not having seen mother for so many years. I did not even have the consolation of giving her a kiss before I left her or of kissing her body after her death; I simply know that my conviction that she was going to die compelled me to constantly advise her to leave the place which threatened her life for I knew that she was going to die. Since God has spared father's life, even though we lose everything we have, I think it is our duty to take care of his health and bring him to Europe to such place as he may desire. If he spent some time here the Queen's Palace will absorb all his attention and amuse him, and with what I know and what the persons of my acquaintance know we can do much in every way even for yourself in your own career. On the other hand, there being not so much poverty now in this country he will not be robbed as they rob other foreigners here who have to pay double on account of their not being acquainted with the country.

With reference to what you say about Morales, I do not want you to look after this because I can do it myself and I have not sent you the paper you wanted. This winter I expect to be able to send him the money with accrued interest, through his father. I expect to write to him at Manila saying that I have sent the money to his father (who is the depository of this money) such and such an amount and so much for interest for such and such time, and will add that I had not sent him the money before because he did not give it to me on condition that I should return it to him even if I had to starve my children. I think that he can well afford to wait on a person who has made a picture for his father which is worth more than the money he has loaned me, and for which he did not pay me a cent. I did not want to say anything to you about this until the matter was finally settled. Unfortunately I was lately taken sick and before
73 I could get out of bed one of the damn boys of the doorkeeper had whooping cough and the children caught it from him. They have been so sick that the doctor advised me to take them out into the country where they have been now for about a month. The mother has been in bed for forty-five days. On account of her critical condition I had to conceal from her the fact that the youngest of the children who is now cutting his teeth is suffering from some horrible convulsions which endanger his life and the landlady of the house where the children are want to put them out into the street unless the board due is immediately paid to her, and I cannot go and see the child unless I take the money with me to pay her. Not knowing what to do, in my desperation I sent a telegram to Bayo for a draft of one hundred pesos which I will send to you through Mr. O'Farrell the last of this month as soon as I finish a certain job on which I have not been able to work very much on account of so many calamities. And here I am, when I thought that I would have money enough to get along, without a cent on account of all this sickness in a country where I risk my health with impunity, something I could not do in Madrid, where everybody is in good health and where there is always an immense floating colony of inhabitants of torrid regions, and they prefer to spend their millions in this city on account of its salubrity and great resources.

Fate is stronger than the will of man but I hope that some day I will have, instead of all these troubles, the pleasure of sending to Carmen the wedding present which I owe her, and I hope it will please her and indemnify you for the many times that my misfortunes have reached you.

With kisses to the children, you and Carmen receive the
74 embrace from your loving brother,—Rafael,—147 Avenue de Villises. (Sgd.) Alfredo Chicote.

DOCUMENT NO. 8.

BARCELONA, *May* 14, 1883.

MY DEAR QUICO: I told you in my last letter that I expected with impatience the arrival of the Str. Barcelona. On the 9th I had the great pleasure of embracing father and the girls. Since his

arrival I have noticed some improvements in father's countenance and he is more agile now than when he arrived. We have called a good doctor and have decided that he be treated here. We have also taken a very cosy house for which we pay twenty-one pesos per month; it has enough room for all of us; we have also rented the necessary furniture for which we pay twenty dollars and have bought other little necessaries, so that tomorrow night we will sleep in the new house. It was quite a coincidence that in connection with political matters the King's brother-in-law stopped at the same hotel where we were. I knew him personally and he was so good that when he learned that father was ill called on him and advised him to seek the opinion and prescription of a wise man before deciding any thing definite; that this man he could only find in Paris for he, (the King's brother-in-law), knew from experience that the Spanish doctors were simply brutes and that having made the sacrifice to come to Europe he should see the best doctor to insure a rapid recovery; he also added that he knew this from experience because his
75 father had suffered for about five years with the same complaint. Father has decided to go to Paris day after tomorrow, leaving here in the evening, to obtain the opinion of the prominent doctors of that city and follow their prescriptions as to waters, etc. Thereafter we will come back and join the girls who we will leave in the meantime in the new house we have taken. Fortunately the owner of the house who lives in the adjoining room is a friend of father's, having been also a friend of our grandfather; and in the house in front of ours there lives Antonio Carcer with his family who will look after the girls and render whatever assistance may be necessary during our short absence. Uncle Manolo, in order to avoid grieving father, left without saying a word to him and father did not know that he had left until the following day.

Do not forget to send me Carmen's picture. Give my regards to her and to your children and you receive an embrace from your loving brother,—Rafael.—Our present address is Paseo de Gracia, No. 129. (Sgd.) Alfredo Chicote.

Document No. 9.

Paris, *Feb.* 9, 1883.

My Dear Father: From Quico's last letter, dated Dec. 30, I learned that God has had compassion on us, sparing your life. I feared and almost anticipated your death and it was this fear that induced me to write the many letters I wrote to you asking you to make a special effort and run away from what was waiting for you there and come to Europe where you can recuperate and stay here at least two winters if you did not care to stay longer. I am
76 sure that after a short stay in this country, Quico and Antonio, having remained there, would look after your business, and you will find many opportunities that will compensate whatever sacrifices you may make in connection with this trip. The recovery of your health at any rate would be a sufficient compensation and you

will regret not having packed up last August. This country is so healthy, being the center of the world's business, it is very close to London which is also a big center. While you recuperate your health you can amuse yourself with so many elements of amusements as are to be found here. There are many things which unconsciously afford pleasure which you cannot find there, no matter how long you stay there and how hard you work. I know that this would be possible and feasible, particularly once you have persons of confidence there upon whom you can rely. I can not do it myself for I heardly have time to earn my daily bread and some money, though not much, is necessary to do this. On the other hand the Queen will come here, either in Spring or Summer, and while she is here if you bring any of the older girls with you, you have no idea what great results in the way of political positions might be obtained if we go about it in the right way. While I have been here in Paris she appointed as her purser a man who had not a cent and who lived in a room on the fourth floor and within that brief space of time he has ma*man*ged to buy big carriages and a large house in the most expensive section of Paris.

You must not hesitate about this matter. Make up your mind and leave that country, no matter how painful it may be. This means many years more of life to you. We will be happy even though
77 we have nothing but what is absolutely necessary for your well being; we prefer this to inheriting millions of dollars from you. If you happen to come here in the month of May in the latter part of Spring you will enjoy a very mild Summer and the scenery around Paris which is one of the most beautiful cities in the world. Your loving son who adores you and dreams of embracing you,—Rafael,—147 Avenue de Villiers.—(Sgd.) Alfredo Chicote.

DOCUMENT NO. 10.

PARIS, *June*, 1, 1883.

MY DEAR QUICO: We have decided in spite of all, in order to insure his complete recovery, to submit father to the curative treatment which the doctors of Paris may prescribe. Their superior science being recognized all over Europe. It happened that a friend of mine, who is the King's brother-in-law, knowing that father was suffering from the same complaint which his own father did for many years, advised us to immediately take the train on account of his bitter experience of what had happened to his father with the doctors of Spain. I am very glad we decided to do as we were told for it seems that father has very much improved during the two days we have been here. When we left Barcelona I had to lift him up every time he wanted to move while now he goes out for a walk ev-ry day with me and with very little difficulty he climbs and decends the steps to the room on the second floor which we occupy. This he does twice a day and the room has the sanitary conditions the doctor prescribed.

78 As we have only come here for the purpose of securing the opinion of these doctors and following their prescriptions, we

have provisionally left the girls in Barcelona until we finally decide where we shall all live as father's health may require. He has been advised not to select any place near the sea for his residence but on the contrary to live as far from the coast as possible. Therefore he should not live in Barcelona. The Acuna and the Vicente Arieta families have told us that cases of paralysis are very frequent there and we have noticed this ourselves in the streets, Mamen having called my attention to several cases. This compelled us to leave sooner than we expected. One morning something strange happened to him which certainly frightened me very much, but fortunately he got over it. I think this was due to the climate of the country. Father seems to like this place very much. Spain cannot compare with this country. He is very anxious that the girls should come and we expect them to come soon. Be it as it may we have already found a compensation for the trip in the improvement of his health which he will apparently recover entirely in a few months. Father -ends his regards to Carmen and to the children and you receive a tight embrace, from your loving brother.—Rafael. —P. S. I cannot write again until the next mail. I do not want father to notice it. I realize your misfortune, and tell Carmen that I greatly sympathize with her. Your loving brother.—(Sgd.) Alfredo Chicote.

DOCUMENT No. 11.

PARIS, *June* 28, 1883.

MY DEAR QUICO: We are very impatient because we re-
79 ceived no letter from you and have wondered what is the matter. We are so unfortunate that the least thing makes us presume that destiny wants to satiate herself upon us and I hope to God that failure to write is due to negligence on your part rather than to bad health.

As I told you in my last letter, father at last decided to come here and stay as long as necessary to consult the doctors here and follow their instructions rather than put himself in the hands of the savage Spanish doctors. During his short stay here his improvement has been so noticeable that the very satisfaction of seeing himself well because he could almost climb, without assistance, the steps to the second floor on which we live, made him conc*i*eve the idea of sending for the girls a few days after his arrival, being very much charmed with the magnificence of Paris compared with what he had seen before. The doctor advised us to avoid annoying him in the least and to follow the treatment prescribed for him, plenty of amusement and exercise. As I did not dare to say to him that in order to live here it was necessary for us to reduce expenses, considering our present financial situation, I have endeavored to distract him, taking care of his house, and delay the matter of the coming of the girls in the hope that after recovery he would change his mind. On the second of this month we went out in the morning and father took a long walk and in the afternoon we went to the Exposition of Belle Arts where he amused himself very much, admir-

ing everything he saw there. Upon our return home that fatality which is beyond the reach of human mind, and while he was standing near me and as I stoped down to pick up a pair of rubber shoes to try them on he made a move to sit on a chair which he thought was nearer to him than it was and before I noticed it and before I could render any assistance he missed the chair
80 and fell on the floor. Fortunately he got over that and according to the doctor it is simply a matter of patience. Even in bed father has a rosy complexion which he never had before in his better days. But for several days he was in iminent danger with a fever, his pulse being at 130, brought about by a fracture which it seems almost impossible to have occur-ed. He was delirious and unconsciously evacuated his bladder and bowels in the bed. You can just imagine what my agony was being alone. I called the children but they refused to come. The doctor said that if father escaped from this he would have to use an apparatus for three months. As soon as father recovered his senses he insisted on my calling everybody and I have suffered very much on this account as I did not want him to know that the children refused to obey him, and it was of no avail to tell them that father was very sick and that they should obey him. I also told them that in view of the fact that he would not be able to walk for about four or five months and the fracture finally cured, it would be ruinous to insist on supporting two houses, two cooks and a double set of servants instead of living all in the same house with father as long as he continued ill and live together with the utmost economy until he finally recovered, and then decide where he should fix his residence. Of course he would not go to Barcelona for he has been advised not to live at any place near the coast for this is very bad for any class of paralysis. I sent a person to accompany them on a trip and see that they spent as little money as possible on the voyage and they sent him back, refusing to move from Barcelona. Sometime later
81 Mamen came along bringing another person with her and we expect the rest of the girls to come to Paris accompanied by another guide. I cannot leave father alone in his present condition and cannot afford to hire a person to go and bring them, the girls, simply because they refuse to come.

This is a catastrophe that God only could have prevented and if it was going to happen anyway we were lucky that it happened here where father can be intelligently treated and where we can find the elements which Spain lacks. Do not be uneasy, because the doctor comes here every four or five days and seems to be surprised at his good aspect and good general condition, so much so that sometimes I have wondered whether he will recover entirely after the fracture is cured.

He has a very clear mind and talks to me about every thing and particularly about the girls.

He told me to tell you that immediately upon the receipt of this letter to ask Nonoy for the best samples of mineral which he may have and to send them to him at once in a box addressed to No. 94 Rue Laugier where he lives near my studio.

I had a conversation today with one of the big local bankers and he told me that he would attend to this matter, adding that there were certain gold mines in South America the stock of which was sold at a very low price here, but has recently advanced to one hundred thousand franc- a share and that if our mines contained abundance of gold nobody can tell how much they will be worth. Now that father is here we can more easily lay the foundation for the successful development of the mines. Do not forget therefore to send us as soon as possible the best samples you can get of this mineral.

The enclosed papers, as you will see, are a certificate that
82 he is living and a certificate that he is registered at the Spanish Consulate, this to enable you to collect the pension to which he is entitled. I do not want to say anything to you or to Carmen about your unfortunate loss. I realize how much you have suffered for I well know how deep into the soul such a thrust reaches. Pray God to spare the life of those remaining and concentrate your love in them. This is the only consolation you can have under the circumstances and if the fact that we share with you your misfortune can minimize your sorrow, believe me that we do really and sincerely share your grief. Your loving brother, Rafael.—(Sgd.) Alfredo Chicote.

DOCUMENT No. 12.

PARIS, *Dec.* 30, 1883.

MY DEAR QUICO: I have before me your kind letters of the 11th and 29th of July which I proceed to answer. That of the 29th I received through uncle Manolo for whom I am waiting that he may take me out of this place where I do not want to spend the winter.

I am very sorry that you have had to look after the work so much. The draft in favor of Morales for one hundred and thirty dollars and thirty cents I have sent to him. Accept whatever Marcaida offers you, even at a loss, in view of the fact that you cannot get more, and add the debit and the credit of the account, a copy of which you have sent to me, and send me whatever balance may be due, that I can forward it to Morales.

I cannot write you more to-day nor can Mamen and An-
83 tonio do so. I have your letters to them which I will hold until our situation improves. Tell Carmen to consider this as a letter to her also. I am sorry that my own affairs should cause you to suffer and you and her receive an embrace from your father, Antonio. P. S. Rafael looks after me and never leaves me alone in the prostrated condition in which I am. My life, however, is not in danger and I am ready to make the return trip.

(Sgd.) ALFREDO CHICOTE.

DOCUMENT No. 13.

BARCELONA, *Jan.* 31, 1884.

MY DEAR QUICO: I beg to answer your letter of the 30th of November which I received on the 15th. As you commenced by charging me

with having forgotten you I will tell you that I did not write to you because Tula and Antonio told you everything in their letters I could have said myself. Father is improving gradually, although he is still unable to write with his own hand; but this he will be able to do in time. It seems impossible that the scoundrel Rafael would have done what he did to father and to us. You are correct in saying that he had premeditated everything. He did not want to do anything until uncle Manolo left here. Then he put two small lamps in the hallway and in the dining room and he wanted us to walk about the house with candles. He also wanted to buy for our own use one dozen ordinary plates which the dealer said were only good for servants. In view of this I selected a set of tableware without his knowledge and told the owner of the store to send it
84 home. I did the same thing with the lamp for the parlor and that for father's bedroom. His conduct seemed to me very funny but I never thought that he had such infamous plans in mind, even though he had told me so, in view of the good opinion you had of him, but we have certainly been very much disappointed because he is nothing but a hypocritical jesuit. What do you think of the idea of shoving us into this entresuelo (ground floor)? Why uncle Manolo was very much surprised to find that we were occupying such apartments and he told me that he intended to tell General Riquelmi to come to see us and that if we wanted anything to look after us but he told me at the same time that he would not bring him to the house because it would be shameful if he were to find us in a place like this *look* common ordinary people. This is looked down upon here. Don't worry about father. We will spare no means to see that he is properly cared for and that he lacks nothing which he may require. To avoid leaving him alone we do not go out except on Sundays when we go to the church and then return to the house. The doctor, however, has told us twice that we should go out and take some exercise, because if we stay at home all the time we will be sick. What we are going to do is to take turns in going out. However I do not know when this will be because we have been thinking of doing so for about two months and the trouble is that none of the girls want to go out when I stay at home. Yes I think I made a mistake about the amount I told you I had left in the wardrobe when I left there. I can see from your detailed statement what the amount actually was. It was my intention to put the money in the savings bank at 8%. This would be safer and would
85 not bother you so much. I am sorry to trouble you with my own affairs, and many thanks for your good management.

Sarate is here now and leaves for that country in March. I would willingly go back with him. I am sick of all these people who seem to care for nothing but their personal interests. When the Acunas come to visit us I tell them such big lies that Tula has to leave because she cannot keep from laughing. They told me that you were flirting with one of them. The conservative party is now in power. This is what we all desired, God grant that uncle Manolo gets what he wants and later on secure the Grand Cross. Papa was very glad to learn that the house on the Escolta is now

rented. This is what has pleased him the most. I don't write any more because I have nothing else to say. Do not let anyone see this letter. I hope Nene will not open it thinking that it is for him. We are anxious to receive those pickled roe.

Receive an embrace from your loving sister, Carmen.

(Sgd.) ALFREDO CHICOTE.

DOCUMENT No. 14.

BARCELONA, *Sep.* 20, 1883.

MY DEAR QUICO: I am writing you this letter by the S. S. "Isla de Mindanao" which leaves to-day. This letter will be delivered to you by the steward who is a friend of our waiter on the S. S. "Barcelona". He is still here and I have availed myself of this opportunity to inform you that we are all well but very much disappointed because we do not hear from you. We are very uneasy. Whenever the mail arrives Antonio goes to the postoffice but no letters come. Well, we will see whether we get any letter
86 from you by the S. S. "Espana", which is as slow as a water buffalo, expected here on the 13th. I understand she is now in quarantine. You have no idea how uneasy we are and how anxiously we await news from you. We have been here four months and have no- heard from you at all. About our situation I will say nothing, because as you know we are the same as ever. We hear that father is improving, thank God.

Uncle Manolo continues to be very good to us. Were it not for him I do not know what would have become of us because we had nothing to expect from Pepen. What a scoundrel!

I have very little news to give you. We live like nuns. We never go out, particularly during the last days. It has been raining all the time. I hear that there is no end to the calamities in that country. Maybe you have read in the newspaper that there was an attempt to kill the King while he was in Paris. Thanks to the Government at Madrid a telegram was immediately sent to the Consul at that place telling him to lookout, and the worst of it is that the would be murderers were Spaniards. I do not know why they hate him so much.

Antonio does not write at this time because he is making copies of the papers connected with the estate which copies father told him to prepare for uncle Manolo.

I am not writing to Nene because I do know whether she is on her way to this country. I always send somebody to the steamer to see whether or not she comes. A tight embrace to Carmen and to the children who I suppose have grown very much, and particularly to my namesake; tell her that I am very anxious to see her. Your loving sister,—Tula. P. S. I suppose that Mamen must have grown a great deal. We always remember him. Please embrace her. I suppose that he does not remember us.

(Sgd.) ALFREDO CHICOTE.

87 DOCUMENT No. 15.

GUADALAJARA, *May* 29, 1883.

MY DEAR FRANCISCO: We arrived in Barcelona on the 9th at six o'clock in the morning after a happy voyage. Your father had a good trip with the exception of two days that he was seasick on account of the rolling of the vessel; the girls were also somewhat seasick, particularly Tula. Carmen was the strongest of them. They went ashore in all the ports at which we stopped and they like- very much everything they saw. At Port Said they had to buy winter clothes because the cold weather took us by surprise and as they had no h-avy clothing they thought they were going to freeze to death. Your father was also provided with woolen underwear and he was al- right. Antonio took good care of his father during the trip. In Barcelona we stopped at the same hotel where Rafael was waiting for his father. While I was there we were always together and took your father out in my carriage with me every afternoon, he could eat well and was animated. He was examined by one of the best physicians of Barcelona who promised to treat him, and with the assistance of Carcer, an old friend, who lives in that city, the family secured a house near his, pretty, cheap and well located. When I left Barcelona on the 12th matters were in the condition I have stated and I promised the girls that a month later, on San Antonio's Day, I would return to Barcelona to see your father and see how they were getting along. You can imagine how surprised I was when by the first letter I received from them I was told that on the 17th Rafael had taken his father to Paris with the frivolous pretext that a friend of theirs had advised him
88 to take him to Paris and have him examined by some specialist. You can readily see that this was not exactly the question. Rafael was actuated by the woman who lives with him. He could not find a better pretext for joining her again than to take his father to Paris. I was very indignant over this. Rafael, taking advantage of the innocence of his sisters and of the helpless condition of his poor father, carried out his plan without any opposition and without considering the consequences. The girls stayed in Barcelona with Antonio and a very good servant we brought with us. They write me often and I write to them too. But rather than be alone without their father they should have come along with me. I do not know how long this situation will last. Nor do I know what are Rafael's projects. I think that his idea is to take them all with him and complete his plan by having somebody else support him and his dishonorable family. His will be the benefit but your sisters, in a strange country like that, without being able to associate with others than a low class of people, such as Rafael associates with, will not be in a very enviable position. On the 21st instant I received a letter from Rafael telling me about his having decided to go to Paris, that his father had made the trip al- right, that the latter was improving, that he would consult doctors and get their advice as to the plan of treatment that should be followed.

Yesterday I received a letter from Carmen telling me that the news from Rafael with reference to his father was good and that the latter had several times gone out for a walk. Whatever Rafael may say about the matter must be taken with a grain of salt, because his object is to have the old man there. He will never say anything that can possibly upset his plans. I hope to God that my poor
89 brother will never realize what is being done with him and be able to see that notwithstanding the fact that he has eleven children he is in the hands of strangers, for it is impossible that Rafael be with him all the time. In short my opinion is that the taking of your father to Paris has been a great mistake? I will go further and say that it was an outrage. It seems that the case was not so urgent but that he, knowing that I counted for something in the family, could have consulted me on the subject. But Rafael knows me and he knows that I know him and that *I* also knows very well that I know the hussy who is living with him. And he knew too well that I would have opposed his plan, particularly under the circumstances which the thing was done. Of course I have not answered his letter. My answer would have been something terrible. But what is the use of making things worse. But it would be well for him to know that he cannot deceive me with ridiculous and flimsy stories as he done his sisters. I suppose that it will be quite a disappointment to you once you read this letter but I thought it my duty to tell you the whole truth.

You can just imagine how glad they were here when we arrived. I found everybody well. Your aunt is very fat. I am the only one who was weak. My legs could hardly carry me, and a little walk would make me tired, so much so that I have not as yet decided to go to Madrid because there I would not have the necessary strength to go from one place to another. I have also kept away from there on account of the reception that was to have been given to the King and Queen of Portugal. This would have kept me busy, being an officer of the Palace. Within a few days however I expect
90 to go to Madrid because I have to report for duty and settle some business there. Of course you understand that I will — preference to your case. I will find out from the Ministry when the present incumbent's leave of absence expires and will have every thing fixed up so as not to make a failure. Well, I will do everything in my power and you well know that I take as much interest in your personal affairs as I would if you were my own son.

Many names have been mentioned as successor to Jovellar but nothing is certain so far. While in Madrid I will know the truth about it. His command has not lasted very long. Undoubtedly he was a good man and that will account for it. That country is out of luck. I suppose you know my successor. Your father knew him and he was once the Secretary of the Civil Government of the Islands. I do not know him, even by sight. I hope he will be successful and make a good impression.

I will write and let you know anything new that happens but if Rafael continues to act as he has been doing I will have very little to do. Your aunt sends her regards to you, also Manolo. My re-

gards to Carmen. Tell her that I still remember when she used to go in the afternoons to the Government building to tea. You take good care of yourself. I suppose you are very busy, and with best regards from your uncle, Manolo.

(Sgd.) ALFREDO CHICOTE.

DOCUMENT No. 16.

GUADALAJARA, *July* 30, 1883.

MY DEAR FRANCISCO: Continuing the sad story of the things which have happened since the ill advised removal of your father to Paris, I have to say that it has now been four days since
91 your sisters Tula, Trinidad and Concha and your brother Antonio and the girl Paulina came from Barcelona to my house to live. The reason for this was that Rafael threatened them with going to Barcelona after them with an order of the Court and taking them to Paris by force. This of course frightened the children out of their wits. Antonio loaded a revolver and was making preparations to receive Rafael when he came. Tula immediately telegraphed to me about the matter, saying that in order to avoid trouble she would like to come and live with me. As I knew Antonio very well and had no doubt that he would kill his brother, I immediately telegraphed to them saying that they would be welcome at any time. They immediately came to me and it turned out that the whole thing was nothing but mere threats on the part of Rafael who never moved from Paris. I have written to Carmen, telling her of the unwise conduct of Rafael. I also told her that they must desist from the trip to Paris where she would have to stay two months. They say that your father will not be able to spend the winter there and in the month of October it gets pretty cold in Paris. I told them to wait until they heard from you and see whether after the old man gets better he decides something definite. I hope that his decision will not be to go back to Paris which would only benefit Rafael and his woman. Rafael cannot live in Spain whereas in Paris he can have a great time with your father's money. Antonio and Tula, through deceit, succeeded in getting some money from the new cashier, Rafael, but they will be in a bad fix when they have spent it, unless I come to their aid. Carmen continues in Paris as a prisoner. She cannot even write to her brothers with entire freedom. Rafael compels her to write letters, purporting to have been dictated by your father, but she immediately writes to us saying that we must not pay any attention to them because they
92 are simply Rafael's inventions. Such has been the situation created by this scoundrel, who is a disgrace to our name. Your father continues wearing the apparatus and it seems that according to the doctor he will have to continue to wear it for about another month. Only a strong man like your father can endure all this. I am sure that if he had remained in Barcelona he would have taken the waters and by this time he would be able to walk and would have recovered entirely. Before he went to Paris he could walk without assistance.

I do not know whether Carmen is at liberty to write to you. If she does write you, it must be under Rafael's supervision and therefore she will never be able to tell you the truth. Rafael, when he writes to you I suppose will tell you nothing but lies.

I do not know what Carmen will say when she learns that the children are in my house. Rafael, provided he does not have to send them money, will think everything is all right. I will write to you by every mail and let you know of anything new that happens. The matter is taking a worse aspect all the time.

The husband of your sister-in-law has not sent me the papers that he brought for me. I cannot account for this, unless Rafael has taken them and concealed them from me, something that would not surprise me at all. We are all very anixous to hear from you and particularly from Rosario, from whom we have not heard again since we left there, and we do not know anything about the country except what we read in the papers. I would, not go to Madrid at the present time because there is nobody there now, even the Ministers are away.

All your brothers and sisters send their best regards to you. They are certainly very sorry to see themselves in their present
93 condition, particularly when they could be al- right in Barcelona with their father in good health and without a broken leg. Your aunt takes very good care of them and we all try to make things as pleasant for them as we can.

My regards to your wife. Avoid further increase of your family. Take care of your health. Your loving uncle, Manolo. (Sgd.) Alfredo Chicote.

DOCUMENT No. 17.

BARCELONA, *Nov.* 30, 1883.

MY DEAR QUICO: It would be more agreeable to us to receive your kind letters by the French Mail which arrives here earlier than Ocampo's boats which are very slow, like the one on which Marquis came. He left there on the 1st of October and arrived here on the sixteenth of this month, a long time after the S. S. Lopez, which left there on the 15th, arrived. The latter boat made a fine trip as usual. The same when they go back. It only takes here thirty days, whereas the Campo's boats are very slow, you know. If you are so busy that you cannot get your letters ready in time to send them by the Lopez boats, you can send them by the French Mail as well. It leaves there twice a month and arrive- here much earlier than Ocampo's pontoons. The latter, as I have said before, are no earthly good. Everything about them is bad. Even the food is detestable.

Mr. Marquis was quite attentive to us during the two days he spent here. We are very sorry that he left so soon because he was very entertaining and father was very glad when he told him that
94 his real estate was in good condition, and that you were trying to settle all of your affairs so that you could come ever in March. His greatest pleasure will be to have you near him and have all of his business properly settled, which is the main thing. The

letter which was delivered to us by Marquis is dated September, which letter we have not read to father because it showed that you were troubled and it contained disagreeable news which would have had a very bad effect on him. He is not in a condition to resist any further aggravating blows. He has had enough trouble already. When you write to us do not forget to enclose another letter for him, giving him good news about his properties and telling him a lie now and *then* to keep him in good humor and avoid his worrying about your situation and the condition of his business which is always on his mind, as he told Marquis the last time he talked to him. As Mr. Marquis has something from you to deliver to Mr. Morales, Mamem has asked him to tell Mr. Morales that she begged his pardon for not having answered his telegram. She did not answer it because she had received no news from Nene and also because she was compelled to go to Paris on account of the accident suffered by her father. Marquis also told us that those people are very much disgusted with *Tanban* and that things are going to the dogs. This shows how ignorant they are, as you well know. I do not care to say anything about the Spainards who live there because I do not want to spoil this letter. It is sufficient to look at their pigs' faces to realize how indecent they are.

Mr. Carcer and his family, whom I suppose you know, they having lived there a long time, have settled here and they send their best regards to you all.

95 With best regards to all from your loving brother,—Antonio. P. S. Do not forget to put the name of the boat which carries your letters. If you send them by the French Mail or by the Reyes boats which leave there for Singapore where they connect with the French Mail, please also state the name of the boat so that the postoffice authorities at that point will not send them some other way, as they usually do, for those gentlemen, as well as those of the postoffice here, seem to have their eye*yes* anywhere else than in the right place. (S'g'd) Alfredo Chicote.

DOCUMENT No. 18.

Court of First Instance of Intramuros.

Order.

FEB. 19, 1883.

There being no objection thereto on the part of Antonio Enriquez, Placido Cauas Buenaventura and Dionisio de las Cajigas, the foregoing bill of costs is approved and let the necessary notice be issued to and demand made upon Mr. Enriquez to pay the amount thereof, which amount shall be distributed among those entitled thereto. So ordered and adjudged by the Court to which I certify.—M. Marino—Manuel Blanco. (S'g'd) Alfredo Chicote.

DOCUMENT No. 19.

On the Escolta, this fourth day of March, 1883, I, the undersigned, made demand upon Antonio Enriquez for the payment of the costs and additional costs specified in the bill appearing on pages 54 and 55 of the record, after having served notice on him of the foregoing order, whereupon he said that he had no objection to
the payment thereof but that he was unable to do so for the
96 reason that he had no funds in his possession belonging to
the estate, all such funds being in the General Depositary, and that the Court, by an order appearing on pages 48-49, having approved the partition and distribution of the property of the said estate, he asked that all the money now deposited be withdrawn and delivered to him in order to pay the costs and additional costs taxed against him, distributing the balance among those entitled to it, for which purpose the Court must issue the necessary order to the Insular Treasurer, enclosing all the receipts. He further asked the Court, in order to avoid further expenses, that such order be issued and entered in this particular proceeding and a memorandum as to the payment of the costs and additional costs made in the other proceedings. A similar demand having been made upon him the number of times required by law, he gave the same answer. So said, and he being unable to sign on account of illness, his son, Francisco, signed in his stead, to which I certify.—Francisco Enriquez.—Blanco.

(S'g'd) ALFREDO CHICOTE.

97 DOCUMENT No. 19.

Number Eight Hundred and Eighty-Two.

In Manila, this 20th day of November, 1897, before me, Enrique Barrera y Caldes, Doctor of Civil and Canonical Law and a Notary Public in and for the city of Manila, personally appeared, Francisco Enriquez y Villanueva, an attorney-at-law, of age, married and a resident of this city, with personal cedula of the 6th class No. 96273, issued by the Administration of Public Finance of this province, in his own behalf and in behalf of Carmen Enriquez y Villaneuva, as attorney in fact for the latter, as appears from the power of attorney conferred upon him in the city of Alcala de Henares on the 11th of September, 1896, before the Notary Public Mariano Bergua y Perez, which said power of attorney he states has never been revoked, suspended or limited, and the pertinent part of which is quoted at the end of this instrument.

Rafael Enriquez y Villanueva, an artist by profession, of age, married and a resident of this city, with personal cedula of the 6th class No. 99578, issued by the Administration of Public Finance of this province, in his own behalf, and as attorney in fact for Cayetano, Gertrudis, Rosario and Trinidad Enriquez y Villanueva,

according to the power of attorney conferred upon him in the city of Madrid on the 16th of November, 1895, before the Notary Public Pablo Pedro Vich y Ferrer, which said power of attorney he states has never been revoked, suspended or limited, the pertinent part of which is quoted at the end of this instrument.

Antonio Enriquez y Villanueva, unemployed, of age, married and a resident of this city, with personal cedula of the 6th class No. 97230, issued by the Administration of Public Finance of this province, in his own behalf and as attorney in fact for Concepcion
98 Enriquez y Villanueva de Gascon, according to a power of attorney conferred upon him in the city of Kobe, Japan, on the 26th of October, 1896, before Mr. F. W. Playfair, the Acting British Consul and Charge d'Affairs for Spain at the said city, evidenced by a public instrument No. 559 executed before me on the 2nd day of August last by the said Antonio Enriquez y Villanueva who states that the said power of attorney has not been revoked, suspended or limited, the same being inserted at the end of this instrument.

And Carmen de la Cavada y Salaver, married to the said Francisco Enriquez y Villanueva, of age, and a resident of this city, with personal cedula of the 9th class No. 125,910, issued by the administration of Public Finance of this Province. The said Carmen de la Cavada y Salavert appears as assignee of the hereditary rights of Jorge Enriquez y Villanueva, under and by virtue of a conveyance of the said rights executed in this city before me on the 15th of April, 1886, which said instrument will be attached at the end of this document.

And the parties having in my judgment the necessary legal capacity to execute this instrument, nothing to the contrary to me appearing, Carmen de la Cavada y Salavert having first obtained the necessary permission from her husband in order to execute this instrument, to which I certify, freely and of their own will said:

That by a public instrument, No. 537, executed in this city by the said Francisco, Rafael and Antonio Enriquez on the 25th of August, 1896, before Jose Engracia Monroy, a Notary in and for this city, which said instrument the parties hereto and each one of them
99 ratify in the capacity in which they execute this instrument, agreed that the estates of their deceased parents Antonio Enriquez y Sequera and Ciriaca Villanueva were then and at that time pending the formation of inventory of the property of the said estates, the examination and approval by the participants therein, of the accounts submitted by the executor and the determination of the particular property which belonged to the said estates, and that for the purpose of making a partition of the said estates it was agreed among other things, first that Rafael and Antonio Enriquez should proceed to examine the accounts of the estate for the years 1884 to June 30, 1896, as submitted by Francisco Enriquez, the executor under his father's will, and the accounts for the year 1883 submitted by him as attorney in fact for his father during that year, which said examination was to be completed within a specified time,

and in case of any objections thereto they should — settled in accordance with the rules laid down in the instrument in question, and second that the said Francisco as such executor would present and submit to his two brothers above mentioned a list of all the property of the estates so that they could examine the same in the manner prescribed in the said instrument.

That these resolutions have been carried out by the parties hereto, Rafael and Antonio Enriquez having duly examined the said accounts as to which they presented various objections which have been treated in accordance with the terms of the agreement and they hereby stipulate that the accounts of the executor from 1884 to the latter part of June, 1896, and the accounts of his administration of his father's property during the year 1883 be recapitulated as follows:

Debit.

100	1st. Amounts collected by Francisco Enriquez y Villanueva from the beginning of the year 1883 to the 30th of June, 1896, as the administrator of his father Antonio Enriquez during the first year and as executor of his said father since 1884 until the said month of June.....	$216,401.97
	2nd. For the purchase price of a piece of property on the Riverita, in the District of Binondo, belonging to the deceased Antonio Enriquez and which was sold on the 12th of March, 1884, by Francisco Enriquez as attorney in fact for his father.....	2,500.00
	3rd. For the dividends received during the period of his administration on the shares of the Hong Kong and Shanghai Banking Corporation belonging to the estate	1,500.00
	Total.....	$220,401.97

Credit.

Sums paid by the said Francisco Enriquez in his double capacity of executor and attorney in fact during the same period as follows:

1st Remitted by draft to the deceased Antonio Enriquez during the year 1883.....	$5,318.83
2nd. Idem idem to Manuel Enriquez during the year 1883 for Antonio Enriquez and his family.....	2,000.00
3rd. Sums remitted in 1884 to the said Manuel Enriquez for the same purpose.....	6,725.00
4th. Taxes on the six pieces of property belonging to the estate	6,687.85
5th. Municipal tax known as "Cleaning and Lighting" on the said property.....	2,666.85

6th. Interest and principal on the mortgage upon the property known as the old theater, in favor of the Junta Administradora de Obras Pias, paid in 1883	1,000.00
101 7th. Principal and interest on the mortgage in favor of the Obras Pias on the house on Calle Palacio No. 3 paid during said year	3,457.88
8th. Interest on the mortgage in favor of the Obras Pias on the building known as the old theater for the period from 1884 to 1896 at the rate of $449.71 per annum	5,846.03
9th. For interest on the mortgage in favor of the Corporation of Recoletos Friars due for the period from 1883 to 1886, inclusive, at the rate of $450.00 per annum	6,300.00
10th. For interest and principal on the mortgage in favor of the Dominican Friars for the period from February, 1883, to February, 1896, at the rate of $372.00 per annum	5,208.00
11th. For interest on the mortgage in favor of the Obras Pias de la Sagrada Metra for the period from 1883 to 1893	20,400.00
12th. Expenses incurred in various suits in which the estate was interested	9,765.53
13th. Premium on fire insurance on the properties of the estate known as No. 4 Calle David and No. 14 Escolta	7,337.00
14th. For repairs to the properties of the estate during the years covered by the accounts in accordance with agreement entered into by the parties hereto with reference to the objections made to this item	18,380.70
102 15th. Payment made on the bond executed by Antonio Enriquez, deceased, to secure the indebtedness incurred by Juan Antonio Gomez, in favor of Jaime Carvell	16,322.61
16th. Paid to the attorney in fact of Gertrudis Garcia Camba, Marchioness de Fuente Piedra, as her share in the estate of Francisco de Paula de Enriquez, Conde de la Puebla	8,536.15
17th. Paid to Encarnacion Aranda, Countess of Humanes, in settlement of Cayetano Enriquez y Sequera's interest in the aforesaid estate	6,000.00
18th. Paid to the architect, Juan Caballeros for the appraisal of the property of the estate	610.91
19th. Commission due Francisco Enriquez for his administration of the property at the rate of 5% of the sums collected by him	10,810.00
Total	$143,373.73

Debits	$220,401.17
Credits	143,373.34
Balance due	$77,028.63

Third, that the entire balance due is not now in the hands of the executor for during the period of his administration he has made payments to his brothers and co-heirs on account of and as advancement upon their shares, which said advances appear in the personal account which he keeps with each particular heir. These accounts will be submitted to them for examination and approval
103 without delay, that the balance due may be determined and the partition of the estate made as soon as possible.

Fourth, that the parties interested in the estates of Antonio Enriquez y Sequera and Ciriaca Villanueva y Solis represented by the parties to this instrument hereby approve, error or omission excepted, the accounts of the administration of the property of the former during the year 1883 and those of the property of their estate from the year 1884 until the 30th of June, 1896, submitted by Francisco Enriquez y Villanueva in the manner in which the said accounts are here set forth.

The parties interested, represented by the parties to this instrument, hereby stipulate that the balance of their individual accounts as well as the balance of the accounts of the executor be considered as debits and as advances made upon their respective shares in the estate and that each one of them be charged with the amount received by him on account of his share in the estate.

The accounts of the estate having been settled, which was necessary in order to proceed to preparation of inventory of the property of the estate, the parties hereto now proceed to make such inventory in the following manner:

Inventory and Appraisal of the Property of the Estates of Antonio Enriquez y Sequera and Carmen Villanueva y Solis, Deceased.

1. Cash. There is in the hands of the executor as the proceeds of the sale of the household furniture of Antonio Enriquez, which said furniture was sold at public auction by Genato & Co., as per account rendered by them April 28, 1885		$1,069.15
2. Furniture. In the hands of the executor:		
9 family pictures with frames	180.00	
1 painting representing the Herodias	100.	
104 1 idem, Neopolitan scenes	50.00	
2 idem, religious subjects	40.00	
1 idem, St. Francis	30.00	
1 iron safe	200.00	
1 small wardrobe	10.00	
1 idem	10.00	
1 big wooden box	6.00	

All in the possession of the heirs Rosario, Gertrudis, Trinidad and Cayetano.

The furniture specified in the foregoing list which the deceased used in his own house in Madrid, is valued at $500.

3. Real Estate:

A lot on Calle Misericordia, District of Sibacon, Santa Cruz, City of Manila, without number, having a superficial area of 737 square meters; bounded on the front by the said street; on the right of its entrance by the property of Jose Maria Venegas; on the left by the property of Eustaquio Tolentino; and on the back by an estuary. This property was acquired by Antonio Enriquez at a public auction held by the Auctioneer J. Mestres..... $1,00.00

Another lot on Calle Palacio, Intramuros, in the city of Manila, No. 12, on the corner of Calle Anda, having a superficial area of 1503.15 square meters; bounded on the front by the said Calle Palacio; on the right of its entrance by the property of Francisco Esquimel; on the left by Calle Anda and the College of Santa Ysabel and on the back by the property of Jose Aguirre; on the said lot there is a house of brick and stone with galvanized iron roof, being a two-story building, the whole property having been valued at 29,890.93

105 Another lot on Calle Palacio, Intramuros, in the city of Manila, No. 43, with a superficial area of 1384.74 square meters, being bounded on the front by the said street; on the right of its entrance by Calle Fundicion, also known as Calle Muralla; on the left by certain property belonging to the Sagrada Metra and on the back by house No. 1, Calle San Jose, belonging to Juan Valera, and the property of Jacinto Herrera; on which said lot there is brick and stone house with two stories, valued at 19,223.43

Another lot on Calle Audencia, of the district of Intramuros of this city, No. 3, having a superficial area of 1401.40 square meters. It is bounded on the front by the said street; on the right of its entrance by the property of Carmen Barredo; on the left by the property of Rita Vizmanos; and on the back by the property of Elena Barrera. There is upon the said lot a dwelling house on stone and brick construction, with galvanized iron roof the whole property being valued at..... 16,089.15

Another lot on the Escolta, district of Binondo, of the city of Manila, No. 14, having a superficial area of 1587.38 square meters. It is bounded on the front by the said street; on the right by an alley

leading to the soda water factory; on the left by the property of Manuel Genato and on the back by the river Pasig. There exists upon the said lot two brick and stone buildings, with tile roofs and two stories, the whole property having been valued at..... 71,760.34

Another lot on Calle David, district of Binondo, city of Manila, No. 6, having a superficial area of 2926.66 square meters. It is bounded on the front by the said street; on the right by the property of Barbara Padilla; on the left by the alley known as Loaira; and on the back by the Sibacon Estuary. There is upon the said lot a two story brick and stone building, with galvanized iron roof, the whole property being valued at..... 44,512.92

106 Another lot on Calle Dasmarinas, district of Binondo, in the city of Manila, known as the old theatre, having a superficial area of 1567.70 square meters. It is bounded on the front by the said street; on the right by Calle Ugalde; on the left by Calle Marquina; and on the back by Calle Poblete. There is upon the said lot a 2-story building, the whole property being valued at..... 17,092.15

4. Rights and actions:

1st. 6 shares in the Hong Kong and Shanghai Banking Corporation, of 120 pesos each, face value..... 720.00

2nd. The right to collect from the heirs of Juan Antonio Gomez a debt which is the subject of an executive action instituted by the estate in the Court of First Instance of the district of Binondo, which said debt amounts to..... 44,000.00

3rd The right to recover from the heirs of Jose Zaragosa the rent from a certain property belonging to Juan Antonio Gomez, upon which property attachment has been levied, the said rent having been paid to Mr. Zaragosa, as receiver..... 3,000.00

The right to recover from Maria Dedal and her son the sum of 4,165.25

The right to recover a loan to Honrato Rocamora, in the sum of 1,526.50

The right to recover a loan to Maria Hidalgo for the sum of 324.00

The right to recover a loan to Juan Briones in the sum of 400.00

107 The right to recover a loan to Baldomero Rocamora in the sum of..... 400.00

The right to recover a loan to Maximo and Bernarbe Gonzalez 90.43

The right to recover a loan to Perfecto Hidalgo..... 230.00

The right to recover a loan to Alejandro Alcantara... 1,636.83

The right to recover a loan to Manuel Panganiban, Remigio Platon and Evaristo Soriano, in the sum of	3,480.40
The right to recover a loan to Juan Mitre, in the sum of	1,625.00
5th. Liabilities of the Estate:	
An indebtedness in favor of the Obras Pias de la Sagrada Mitra, secured by a mortgage on house No. 14, Calle de la Escolta, Manila	28,000.00
Idem idem in favor of the same party, secured by a mortgage on house No. 4 Calle David	8,000.00
Idem idem secured by a mortgage on the house No. 12, Calle Palacio	7,948.00
Idem idem, secured by a mortgage on the house No. 43, Calle Palacio	8,000.00
Idem idem, secured by a mortgage on the house on Calle Audencia	8,000.00
Idem idem, in favor of Junta Administradora de Obras Pias, secured by a mortgage on the house on Calle Dasmarinas	7,495.00
Idem idem, in favor of the Corporation of Dominican Friars, secured by a mortgage on house No. 12, Calle Palacio	6,200.00
108 Idem idem, in favor of the Corporation of Recoletos Friars, secured by a mortgage on the house on Calle David	7,500.00
Interest due to the Mitra on loans	43,416.50

7th. The house on Calle David, No. 9, which Rafael and Antonio Enriquez asked to be included in the inventory will not be so included, the parties having so decided in view of the public instrument executed by the deceased before the Notary Miguel Torres on the 27th of March, 1883, whereby the said property was sold and transferred to Dona Carmen, one of the parties to this instrument. The house on Calle Fundicion in the district of Intramuros, which the said gentlemen asked to be included as belonging to the estate of their deceased father, will not be included in view of the statement made by the executor, Francisco Enriquez, to the effect that the same had been sold by the deceased on a date which he is unable to specify with certainty. It is hereby agreed that this matter be postponed until the necessary evidence of such transfer has been duly submitted.

With reference to the payments made to the Marchioness of Fuente Piedra and the Countess of Humanes, Francisco Enriquez stated that the same were made by him as executor of his father's estate, these being liabilities incurred by the said Antonio Enriquez, deceased, who, as administrator of the estate of Francisco de Paula de Enriquez, Conde de la Puebla, had been paid the proceeds of the property of the estate belonging to the said Marchioness, who
109 was the heir of the intestate of Cayetano Enriquez, also an heir of the said Francisco de Paula Enriquez, Don Antonio never having discharged the said liabilities.

8th. The parties hereto reserve their right to demand that there be included in the inventory any property which hereafter may be found to belong to the said estates.

9th. To determine the actual assets of the estates, the accounts relating thereto, submitted by the executor, will be closed on the 31st of October next, when the final accounts to be submitted by Francisco Enriquez shall be examined and approved by the parties hereto.

10th. A true copy of this instrument shall be delivered to Jose Moreno Lacalle, Commissioner, that he may proceed to make the partition, and the parties hereto will meet together on a day to be fixed by the said Moreno Lacalle for the purpose of deciding the manner in which the property of the estate shall be distributed among the heirs.

So said the contracting parties in the presence of the witnesses to this instrument, Tomas Aguilen and Zacarias San Pedro, both of age and residents of this city; and this instrument having been read by the contracting parties, they ratified the same, signing hereon, after inserting the documents to which this instrument refers and which are literally as follows:

(Documents inserted.)

The for-going is a literal copy of the original documents, exhibited by the contracting parties to which I refer. I further certify as to the identity, occupation and residence of the contracting parties.—Francisco Enriquez.—Rafael Enriquez.—Antonio Enriquez.—Carmen de la Cavada de Enriquez.—Tomas Aguilon.—Zacarias
110 San Pedro.—Dr. Enrique Barrera y Caldes.—True Copy.—Francisco Enriquez.—(Sgd.) Alfredo Chicote.

DOCUMENT No. 20.

In Manila, this third day of November, 1897, at a meeting held in the law office of Attorney Moreno Lacalle by Francisco, Rafael and Antonio Enriquez y Villaneuva for the purpose of definitely deciding upon the accounts of the administration of the estate of Antonio Enriquez during the year 1883 and the accounts of the estate of the said Antonio Enriquez and that of his wife, Ciriaca Villanueva, deceased, and making up the inventory of the property belonging to both estates, and after reconsidering previous discussions had upon the matter and deliberating at length about the same, they unanimously agreed as follows. With reference to the account submitted, first, the items for repairs to the property of the estate, and objections thereto, taking as a basis for the agreement of the 19th of December, 1895, between the commissioners Ycaza and Moreno, that the said items be stricken out and that the cost of whatever repairs which may have been made to the property be ascertained by experts appointed for this purpose, it was decided that in view of the fact that the appraisal of the said repairs would be very expensive and difficult, the executor be given credit for the said repairs in the sum of 18,380.70 pesos, all previous objection to the said item being hereby withdrawn and the matter definitely settled; second, as to the

other items of the said account for expenses, etc., it was decided to consider all objections settled and the amount of the said expenses was fixed as stated in the proposed instrument relating to the approval of the said accounts and the formation of inventory which the interested parties have this day agreed upon, which said
111 rough draft will be immediately put, into the hands of a notary for the execution of the formal instrument; the accounts being thus settled and definitely approved.—As to the inventory, the same is hereby approved under the terms and conditions as specified in the said rough draft of the proposed instrument in question. There having been included in the general accounts of the executor the amounts which the said executor has from time to time paid to the participants in the estates as advances on their respective shares, which said amounts thus paid should be more properly charged to the individual accounts of each participant, it is hereby agreed that the said advances be excluded from the said account and that a separate account be rendered with reference to each of the said participants so that whatever balance may be due thereon be included in the inventory as assets of the estate, the said separate account to be rendered with reference to the general accounts.—Don Rafael and Don Antonio Enriquez having stated that they understood that the house on Calle David No. 9, another piece of property on the Barraca, both in the district of Binondo of this city, and a certain house on Calle Baluarte Fundicion, belong to the estate and requested that they be included in the inventory, Francisco Enriquez replied that the house on Calle David No. 9 had been sold by his deceased father to Don Francisco's wife for the sum of eight thousand dollars, local currency, according to a public instrument executed before the Notary Miguel Torres on the 27th of March, 1883, a copy of which said instrument he submitted for inspection by the objectors, that the house on Calle Fundicion had also been sold by his father on a date which he was unable to give, not having any record thereof, and that the property on the Barraca or Riverita had
112 likewise been sold by him, the said Francisco Enriquez as attorney in fact for his father, to Victoriano de los Reyes, on the 12th of March, 1884, for the sum of 2,500.00 pesos, which said amount, plus five hundred pesos, was sent by draft to his father for the latter's expenses, through Manuel Enriquez, as shown by a letter from the latter, which said letter, together with a copy of the instrument of sale, he submitted for examination by the other parties.—Whereupon it was agreed that the request that there be included in the inventory the house on Calle David, No. 9, be and is hereby withdrawn; that there be also withdrawn the similar request with reference to the property on La Barraca, its scale having been satisfactorily established; but that the proceeds of the sale of the latter property be considered as a charge against the executor, Francisco Enriquez, until he shows that he has remitted to the party entitled thereto an amount equal to the purchase price; and as to the house on Calle Fundicion, the matter is postponed until further data can be secured with reference thereto.—The parties finally agre-d that the item of 1,883 pesos in the said account, representing the amount

of a draft to Don Manuel Enriquez for the sum of 2,000 pesos, is approved with prejudice to examining such proof as Don Francisco may present with reference thereto.—Upon the terms hereinbefore set out the aforesaid accounts are considered settled, and the inventory of the estates, terminated, and in witness thereof the parties sign these presents in duplicate.—Rafael Enriquez,—Francisco Enriquez,—Antonio Enriquez,—Jose Moreno Lacalle.

(Sgd.) Alfredo Chicote.

113 DOCUMENT No. 21.

No. 260.—In Manila, this 17th day of May, 1886 before me, Enrique Barrera, Doctor of Civil and Canonical Law and a Notary Public in and for the city of Manila, and in the presence of a competent number of witnesses whose names appear at the end of this instrument, personally appeared Francisco Enriquez y Villanueva, of age, a resident of this city, with personal cedula of the 4th class, No. 1215, issued by the Administration of Public Finance of this Province, during this year, the said Mr. Enriquez being personally known to me, and after assuring me that he is in the full enjoyment of his civil rights, having the necessary legal capacity to execute this instrument, nothing to the contrary to me appearing, freely and voluntary stated:

That, approving and ratifying all the judicial and extrajudicial acts, contracts and agreements heretofore entered into by his wife, Maria del Carmen de la Cavada y Salavert, without his consent, with reference to her exclusive or separate property, he hereby in the most solemn manner gives and confers upon his said wife such license as may be required, his said wife being of age and a resident of this city and personally known to me the undersigned Notary, that she by herself may control, manage and administer whatever property which may belong exclusively to her or which may hereafter belong to her, to care for the same, investing therein such amount of money as may be necessary, receiving the rents and products therefrom and performing all other acts with reference thereto as should be performed by an administrator; to purchase, sell, exchange, and lease the said property or any part thereof in the manner which she may see fit and under the terms and con-
114 ditions she may stipulate, collecting for herself and paying with money or funds which may belong exclusively to her for whatever property she may either sell or buy; to pay with such funds whatever bonus may be agreed upon in the exchange of property and such rent as she may stipulate in case of lease; to accept, either absolutely or with benefits of inventory, any inheritance, testate or intestate, which may fall to her, and for this purpose to appoint depositories, experts and accountants, approving such inventories, appraisals and partitions, and taking judicial or extrajudicial possession, either physical or symbolical, where the same may be necessary, of all the property belonging to her exclusively of which she has or may hereafter acquire by inheritance or by any of the other means hereinbefore set out; to compromise and compound

all claims, actions and rights which his said wife has or may have, either in her favor or against her, whether they be in, litigation or not, and for this purpose to accept in settlement thereof such sums of money as she may deem sufficient, executing whatever deeds may be necessary with the penalties, requisites and circumstances essential to their validity; to claim, demand and receive whatever monies may be due her from any person, corporation, bank, association, Government department or private person; to appear by herself before any Notary Public and execute or demand that others execute the instrument which should be executed by virtue of any contract which she may lawfully enter into under and by virtue of this authority, where the presence of a Notary may be required, and to issue and sign or demand and receive such receipts and private documents as may be necessary; to, with reference to the property or interests belonging to her exclusively, and whenever necessary, to ap-
115 pear by herself or through an attorney selected by her, before any public authority, courts and tribunals or justice of competent jurisdiction in all administrative, ec-lesiastical and civil matter in which she may be interested, for the purpose of defending her own rights in such suits and actions, whether civil, criminal or otherwise, now pending or which may hereafter be instituted, without my permission expressly given in each particular case, and for this purpose to file complaints or information, as the case may be; to present petitions of any kind, to file documents, introduce witnesses or any other evidence, to apply for the issuance of orders, citations, summonses, writs of replevin, writs of attachment, and levies upon property; to impeach witnesses, to have depositions taken, accepting the same and binding herself thereby if favorable to her interests; to accept service of notice of decrees, resolutions, orders, interlocutory orders and judgments, abiding by such as may be favorable and appealing from those otherwise, prosecuting such ordinary or extraordinary remedies as may be necessary to a final determination, and prosecuting such actions as may be brought by her to a final judgment; to by herself, or through an attorney duly selected by her, and with reference to her own property, to attend acts on conciliation and such other verbal or oral proceedings as may be required, conferring and granting upon her for this purpose, and all matters incidental thereto, the most ample authority as may be required, she being at liberty to act as though she was not under the control of her husband, whether property which belongs to her exclusively or in which she may be interested, belongs to her dowry or is her own separate prop-
116 erty hereby promising to ratify and confirm whatever his said wife may do or cause to be done in the premises as aforesaid under and by virtue of this marital authority or license, in the most solemn manner required by law.

So said Francisco Enriquez in the presence of the witnesses Tomas Aguilon and Valeriano Hernandez, both of age and residents of this city, to me personally known; and the parties having been duly informed of their right to read this instrument, they proceeded to read the same, whereupon the said Francisco Enriquez ratified the same, all of them signing hereon. To all of which, as well as to the identity

and residence of the said Francisco Enriquez and the witnesses above mentioned, I, the undersigned Notary, certify.—Francisco Enriquez.—Tomas Aguilon.—Valeriano Hernandez.—Before me: Dr. Enrique Barrera Caldes.—the foregoing is a first copy taken from its original recorded on pages 1031-1035 of my protocol, to which I refer. And at the request of the said Francisco Enriquez I issue these presents under my seal and signature in Manila on the date hereinbefore stated, to all of which I certify.—(Sgd.) Dr. Enrique Barrera y Caldes.—Notary's Seal. (Sgd.) Alfredo Chicote.

Document No. 22.

No. 108. In the city of Manila, this 27th day of December, 1881, before me, the undersigned Notary Public, and in the presence of the witnesses whose names appear at the end of this document, personally appeared the Honorable Euglogio Andujar, Alcalde Mayor and Judge of the Court of First Instance of the District of Intramuros,
117 and at present acting as such, and said:

That at the request of Antonio Enriquez, for himself and on behalf of his brothers Cayetano and Manuel Enriquez and his niece Gertrudis Garcia Gamba Enriquez, who have been declared to be the lawful heirs of the deceased, his excellency Francisco de Paula Enriquez, Conde de la Puebla de Portugal, who died intestate, with the conformity of Eduardo Hermida, guardian ad litem of Maria de los Remedios and Luis de Quintos, the husband of Josefa Enriquez, and in behalf of Dolores Enriquez y Fresulo, the natural children of the said deceased, who were also declared to be his heirs, there was sold at public auction after having been duly appraised, the real estate and other property belonging to the estate of the said deceased, including the property on the Riverita on the corner of La Barraca, in the district of Binondo, bounded on the front by the said Riveria, on the right by the property of Ceferino Gil, on the left by the said Barraca and on the back by the property of Manual Callejas, which said property on La Barraca having been offered for sale by the auctioneer, Jaime Mestres, on the 20th of December, 1880, was sold to Antonio L. Barreto for the sum of 1,367.00 pesos, as appears from the auction sale proceedings, pages 424-425 of the record in which they appear, as follows: "On the Escolta, in the district of Binondo of the Province of Manila, this 20th day of December, 1880, at 10 o'clock A. M., in compliance with the foregoing order I, the undersigned clerk, went to the office of the auctioneer, Jaime Mestres, and directed him to announce by means of the usual bell-ringing the sale at public auction of property referred to in the said order, in accordance with the notice heretofore published, and
118 Ramon Mortera, Manuel Perez, Antonio Lorenzo Barreto, Manuel Genato, Luis Litongjua and Juon Serra having appeared as bidders, the said Antonio Lorenze Barreto offered for the said property on the Riverita in this same district the sum of 1,367.00 pesos, none of the other bidders having overbid him, notwithstanding the fact that the said auctioneer, Jaime Mestres, repeatedly announced in a loud and distinct voice the amount bid, and there being no one

willing to offer more than the amount offered by the said Antonio Lorenzo Barreto the property was knocked down to him and the said property was declared definitely sold to the said Mr. Barreto for the sum of 1,367.00 pesos offered by him. In witness whereof, the parties sign hereon together with the auctioneer, to which I certify.—J. Mestres.—Antonio Barreto,—Manuel Blanco." That the said purchaser, Antonio Lorenzo Barreto, sold and transfer-ed to the said Antonio Enriquez all his rights and actions under this auction sale as appears from a petition appearing on page 432 which is as follows: "To the Judge of the Court of First Instance of Intramuros.—Antonio L. Barreto, in the proceedings relating to the settlement of the estate of Francisco de Paula Enriquez, appears and states: That at the last auction sale of the following property: House No. 14 Escolta for the sum of 37,110.00 pesos and premises known as No. 3 Calle Palacio for the sum of 19,742.00 pesos; another piece of property on La Barraca for the sum of 1,367.00 pesos; and a building lot on the Sibacon for the sum of 936.00 pesos, making a total of 59,195.00 pesos, from which said sum there is to be deducted the amounts of the liens existing upon the aforesaid two houses. (Incomplete; apparently something left out).—That having to leave Manila in the interest of his business he has heretofore agreed with Antonio En-
119 riquez to sell and transfer to him, the said Antonio Enriquez, all of his rights under the said auction sale and as proof of his acceptance of the said transfer he has also subscribed to this petition. Wherefore, I ask the Court to consider the said rights under the auction sale as aforesaid as duly transferred to Antonio Enriquez, directing that he be considered as though he was the original purchaser to all legal intents and purposes. Manila, Jan. 7, 1881.—Francisco Godines.—$4.25 including paper and legal advice. Antonio L. Barreto.—Antonio Enriquez." That Antonio L. Barreto and Antonio Enriquez having ratified the aforesaid petition, the Court made an order, pages 434-435 of the record, which is as follows: "Court of First Instance of Intramuros, January 17th, 1881, Order.—Upon consideration of the record, and the proceedings relating to the sale at public auction of the property in question, pages 419-427, and in view of the conformity of the parties and the prayer of the foregoing petition which has been ratified by the parties, the Honorable Judge, before me, the Clerk, said; The sale at public auction of the property belonging to this estate in favor of Juan Serra, Antonio Lorenzo Barreto and Luis Litonjua, is hereby approved and it is ordered that necessary deeds in their favor be executed by the parties who should execute the same, it being understood that the first two deeds should be executed in favor of Antonio Enriquez and Juana Carrio, Mr. Barreto having transferred all of his rights to them. Done by the Court, to which I certify.—Jorge Morlan.—Manuel Blanco." The documents hereinbefore quoted agree with the originals appearing on the pages above cited of the record of the proceedings relating to the sale of the property of the deceased, to which I certify.—And, it having been directed in the said order that
120 the necessary instrument of judicial sale be executed in favor of the purchaser, the aforesaid judge, by virtue of the juris-

diction and power vested in him by the laws of the Kingdom, hereby executes in the name of the heirs of the said deceased this deed of sale and hereby sells and transfers absolutely and forever to the said Antonio Enriquez for the aforesaid sum of 1,367.00 pesos the house and lot on the said Riverita on the corner of La Barraca in the district of Binondo, hereinbefore described, free of all incumbrance or lien, either general or especial. He therefore hereby separates the said heirs and other interested parties from the title and ownership and right of possession which they have or may have to the said house and lot, and sells and transfers the same to the judicial purchaser with all the rights thereunto belonging, that by virtue of this instrument he may take possession of the same and dispose of it at will and as the legitimate and absolute owner thereof, the said heirs and parties in interest being here bound to guarantee and defend the said sale; and for this purpose and in order to give greater validity to this instrument the honorable judge hereby interposes his authority and judicial powers as may be necessary under the law. And Antonio Enriquez, being here present stated that he accepted this deed of transfer to him, hereby acknowledging receipt of the said property and the lot upon which it stands, purchased by him for the aforesaid amount of 1,367.00 pesos; and the purchaser as well as the Honorable Judge, the latter acting in behalf of the parties interested in the estate, declare that the said sum of 1,367.00 pesos was a just and fair value of the said property and lot and that if the same was worth more or less than the said amount, they mutually donate to each
121 other whatever difference there may be, hereby waiving the provisions of law relating to property sold for more or less than half the actual value, as well as for the four years which the law prescribes for bringing an action for the reciscion of the sale or the reduction of the purchase price to a just and fair value. The said Antonio Enriquez hereby acknowledges to have received, as receiver and administrator of the estate of his deceased brother, the sum of 1,367.00 pesos, the purchase price of the house and lot to which this instrument relates. To the faithful performance of this contract the Court binds the property of the said estate, the purchaser binding his own. So said the contracting parties, signing hereon in the presence of the witnesses Teodorico Magcauas and Miguel Tolentino, to which I certify.—Eulogio Andujar.—Antonio Enriquez.—Teodorico Magcauas.—Miguel Tolentino.—Before me, Manuel Blanco.—The Foregoing is a first copy taken from its original appearing on pages 273-284 of my protocol for the last year, 1881, to which I refer. And at the request of the purchaser, Antonio Enriquez, this certified copy is issued on two sheets of stamped paper of the second class and one sheet of the third class. And in witness whereof I have hereunto set my hand in Manila this 18th day of January, 1882. In the presence of the witnesses Teodorico Magcauas and Miguel Tolentino. Manuel Blanco. Fees $9.25—Sections 393 and 396 of the old tariff.—A true copy. (Sgd.) Alfredo Chicote.

DOCUMENT No. 23.

DEPARTMENT OF ASSESSMENTS AND COLLECTIONS,
CITY OF MANILA,
MANILA, *June* 4, 1902.

122 This is to certify that the land and improvements known as 76, 80 and 84 Calle Numancia, district of San Nicolas, which were declared by Francisco Enriquez as agent for his wife, Dona Carmen de la Cavada y Salavert, owner, have been assessed for taxation purposes for the year 1901 at $6,118.48, gold, $5,368.48, being the land value and $750.00 the house value. Henry Steert, Chief Deputy Assessor, Acting City Assessor and Collector.—(Sgd.) Alfredo Chicote.

DOCUMENT No. 24.

The Chinamen Chan Ku Cheong, with personal cedula No. 3808 issued June 21, 1899, herely leases two doors and the upper floor connected therewith of the premises known as No. 10 Calle Numancia, district of Binondo, belonging to Carmen de la Cavada de Enriquez, under the following conditions:

1. The rent for the said premises is 36 pesos per month, payable at the end of every month in local currency.
2. This being a personal contract, the lessee will have no power to transfer the same or sublet the premises in question without the express authority of the owner, given in writing.
3. The lessee shall pay for the cleaning of the closets and the municipal tax for water consumed.
4. The lessee shall not make any alterations in the premises without the express consent of the owner, and whatever improvements may be made by him with the permission of the owner first obtained shall be the property of the owner.
5. The term of this lease shall run for two years from date and may be extended by mutual agreement at the expiration thereof.

In witness whereof the parties hereto sign these presents in
123 duplicate, this contract having been interpreted to the lessee by his Chinese relative Eduardo Cruz Gonzalez Aliong in Manila this 1st day of September, 1899.

(Sgd.) CHAN KU CHEONG.
(Sgd.) CARMEN C. DE ENRIQUEZ.
(Sgd.) EDUARDO C. GONZALES ALIONG,
Interpreter.

124 Court of First Instance of Manila, Part II.

Civil Case No. 474.

RAFAEL ENRIQUEZ, Plaintiff,
versus
FRANCISCO ENRIQUEZ et al., Defendants.

MAY 29, 1902.

Before the Honorable A. F. Odlin.

Present: Mr. Montagne, as counsel for plaintiffs, and Mr. Chicote, as counsel for defendants.

Mr. Montagne, counsel for plaintiff, called the Court's attention to the fact that it does not appear from the records that an order, signed by the Court, was issued during this month, appointing Mr. Lamme as guardian ad litem of a minor also interested in this action.

The Court stated that in case such order could not be found in the record a new order would be issued to the same effect.

Mr. Montagne read the complaint to the Court and the answer thereto, and asked the court to receive the testimony of Carmen de la Cavada de Enriquez.

Mr. Chicote stated that the witness could not appear in Court on account of illness.

Mr. Montagne stated that it was necessary to receive and hear the testimony of Carmen de la Cavada before introducing other evidence. Mr. Chicote then presented a doctor's certificate to the effect that the witness was ill and could not leave the house. The Court thereupon ordered with the consent of counsel that the latter repair
to the house of the said Carmen de la Cavada de Enriquez
125 together with the assistant clerk of the Court and the official
stenographer for the purpose of receiving the sworn declaration and testimony of the said witness. The Court then adjourned until the return of counsel and court officials.

In pursuance to the order of the Honorable Judge of Part II of this Court, Ramon Heras, assistant clerk of the Court, Julio Gimenez Jerez, Attorney Montagne, as counsel for plaintiff, Mr. Chicote, as counsel for defendants, repaired to the residence of the said Carmen de la Cavada de Enriquez, who, having been duly sworn by the said clerk to tell the truth, the whole truth and nothing but the truth, in answer to counsel's questions, testified as follows:

Testimony of Carmen de la Cavada de Enriquez.

Her name is, she says, Carmen Cavada de Enriquez, 39 years of age, residing at 296 Calle San Sebastian.

Questions by Mr. MONTAGNE:

Q. Are you the wife of Francisco Enriquez?
A. Yes sir.
Q. Are you one of the defendants in this case?
A. Yes.
Q. Did you know Antonio Enriquez in his life time?
A. Yes.
Q. Do you remember when Antonio Enriquez was taken ill in Manila.
A. Yes.
Q. How long before Antonio Enriquez was taken ill were you married?
A. Some six or eight months, I do not remember exactly.
Q. Did you visit Antonio Enriquez during his illness?
A. I was almost all of the time by his side.
126 Q. Where did Antonio Enriquez live at the time he left the Philippines.
A. On the Escolta, No. 14.
Q. Do you mean where the English Drug Store now is.
A. Yes.
Q. How many months had *be* beèn living on the Escolta?
A. A few months.
Q. During his illness on the Escolta and before he left for Spain did he go out of the house.
A. We used to go out driving with his daughters, Tula and Trinidad.
Q. Did he go out driving.
A. Yes sir, to the Luneta, the Malacon and Sampaloc.
Q. Could Antonio Enriquez walk?
—. Yes.
Q. Could he walk alone?
A. Yes, because he sat at the table with us and climbed the steps without any assistance.
Q. That was before he went to Spain?
A. Yes.
Q. Could he talk distinctly?
A. Perfectly.
Q. And could you converse with him?
A. Yes.
Q. Could you understand him distinctly?
A. Yes, he spoke of everything.
Q. Until he went to Spain?
A. Yes.
Q. Before he went to Spain did he speak to you with reference to some property of yours?
A. Yes.

Q. How long before he left for Spain?
A. I do not remember.
Q. More or less?
A. A few months.
Q. Was he ill then?
A. He was but he could talk as well as you do now.
Q. What did he say with reference to that property?
A. I do not remember exactly.
127 Q. In substance, what did he say?
A. I do not remember.
Q. Don't you remember in substance what he said?
A. No.
Q. What did he say to you?
A. He said yes?
Q. How many questions did he answer?
A. Those things happened too long ago for me to have kept them in mind.
Q. All the conversation you had with him was that he said yes to you?
A. Yes.
Q. Don't you remember anything else?
A. Nothing else.
Q. Do you remember having bought from Antonio Enriquez a piece of property on Calle David?

Mr. CHICOTE: I object to the question because that property is not in controversy here.

WITNESS: I do not remember.
Mr. MONTAGNE: Don't you have any recollection about a piece of property on Calle David?
A. I have no recollection at all.

Mr. Montagne then stated that he wanted to have it appear of record that Attorney Chicote had advised the witness that she could refuse to answer any question to which he might object as irrelevant, and that such questions the Court would decide later whether they were proper and competent or not.

Q. Do you remember whether during the latter part of March, 1883, you had some business with Antonio Enriquez?
A. I have not had any business with him.
Q. Don't you remember whether in the year 1883 you bought a piece of property from Antonio Enriquez?
A. Yes, but I did not buy it from him.
128 Q. Do you remember that during that same month Don Antonio bought, or you received from him a deed of sale for a piece of property on Calle David?
A. Yes.
Q. How long before Don Antonio Enriquez left for Spain did you receive that conveyance?
A. I do not remember.
Q. How much did you pay to Antonio Enriquez for that property?

Mr. CHICOTE: I object to the question because that must appear in the public instrument itself.

A. I do not remember.

Q. Whatever money you paid to Antonio Enriquez for that property on Calle David, where did you get it?

A. It was mine, absolutely mine.

Q. How long before that date did you acquire that money?

A. I had the money when I bought the property and it never occurred to me that I would have to tell anybody where I got the money from. The money was mine.

Q. Did that money come to you through inheritance from someone?

A. No.

Q. That money, then, was money acquired by you in business?

A. Yes.

Q. What kind of business?

A. That is nobody's concern.

Q. Did you ever have any commercial business?

A. Yes.

Q. What kind of business?

A. I do not remember.

Q. Have you ever speculated in real estate?

A. Never.

129 Q. Did you ever engage in the transportation business.

A. Neither.

Q. In the mining business?

A. No.

Q. Can you state in what kind of business you made that money?

A. Legitimate and honorable business.

Q. Can you specify the business?

A. Such business as a respectable woman might engage in.

Q. I do not mean to insinuate that the business in which the witness engaged was not legitimate and honorable, far from that; what I simply want to know is the kind of business in which she has acquired that money, but I have never supposed for a moment that the business was not lawful and legitimate. I simply want to make this statement and have it so understood.

Q. The money with which you bought the house on Calle David, you had before you were married?

A. Yes.

Q. Did you have — in any bank.

A. No, I always kept it myself.

Q. How long before you were married did you acquire that money?

A. I do not remember.

Q. Did you keep it in bank notes or in silver?

A. Both.

Q. How much, more or less, did you have in silver?

A. That was too long ago and I cannot remember it.

Q. In bank notes?

A. I cannot remember.

Q. Where did you keep that money?
A. In my possession.
Q. About your person or in some other place?
A. In my wardrobe.
130 Q. How much did you have.
A. I cannot remember.
Q. Now, confining myself to the purchase you made from Voctoriano Reyes, do you remember having bought that property a year later, I mean the property on the Riverita.
A. Yes.
Q. Was Antonio Enriquez absent from Manila at that time?
A. Yes.
Q. It was about a year after he left, was it not?
A. Yes.
Q. How much did you pay Victoriano Reyes for that land?
A. If I remember correctly, I paid him 2,500 pesos.
Q. Where did you get that money from?
A. It was mine.
Q. Was it yours too?
A. Yes.
Q. How long before that time, and before you purchased that land, did you acquire that money?
A. I had the money.
Q. About how long before that time?
A. I cannot say how long. I had that money because it was mine.
Q. Did you acquire that money before or afterwards.
A. Before and afterwards.
Q. Part of that money you acquired afterwards, did you?
A. Yes.
Q. From whom did you get the money?
A. My husband and I made an agreement that I should manage my money and he manage his. My husband gives me whatever is necessary for the household expenses, the education of the
131 *education of the* children, etc., and I look after my own personal business.
Q. Do you have that contract with you?
A. Yes.
Q. Is it in writing?
A. Yes, we made — in the provinces.
Q. Did you make that agreement after your marriage?
A. Yes.
Q. You say that your husband has that contract?
A. Yes.
Q. Was that contract executed before a Notary Public?
A. Yes.
Q. Before what Notary?
A. I do not remember.
Q. Where was that contract executed?
A. Here in Manila.
Q. How long after you were married?

A. I cannot say.

Q. You say that you do not have that contract in your possession?

A. My husband has it.

Q. Then the money which you invested in the purchase of that property was acquired in your business before and after you were married?

A. Yes, sir.

Q. How much of that money did you make after your marriage?

A. I am unable to say. I never thought that I would be called upon to account for the money that I made.

Q. What was that money you made after your marriage?

A. I am unable to say.

Q. Where was Antonio Enriquez when you paid that money for the property on Calle David?

A. Please do not ask me any more questions about the property on Calle David because I have absolutely no recollections about it.

Q. Have you no recollection at all about the property on Calle David.

A. I have no recollection at all.

132 Q. Did you speak to Victoriano Reyes before the purchase of the property on the Riverita took place?

A. No, it was he who called upon me and asked me whether I wanted to buy that property.

Q. Where did he make that proposition to you?

A. Further up the street. On this same street, No. 14. I do not know the present number of the house.

Q. How long before the deed was executed did Victoriano Reyes speak to you about the matter.

A. Some two years.

Q. Was it in the day time or at night?

A. In the day time.

Q. At what hour?

A. I do not remember.

Q. Was somebody else with him or was he alone?

A. Alone.

Q. What did he say to you the first time?

A. Whether I wanted to buy that property.

Q. What did you say to him?

A. That I would think it over and later I told him that I did want to buy it.

Q. What else was said?

A. I do not remember, this was so long ago, more than seventeen or nineteen years ago. It is impossible for me to remember what happened seventeen years ago.

Q. Did Victoriano Reyes speak to you before that time?

A. Yes.

Q. Did you consult your husband about the proposed purchase?

A. At first I did not, but later I told him that I was going to buy it.

133 Q. What did your husband say to you?

A. He told me to do as I pleased; that if it suited me to buy it I could do so, otherwise I did not have to.

Q. Do you remember when Antonio Enriquez left for Spain?
A. No.
Q. Were you present when he left?
A. Yes.
Q. On the day that he left for Spain, could he walk and move about?
A. Yes, sir, by leaning on a cane he could walk all about the house on the Escolta. This house had a very large hall and he could walk from one end to the other; and he could talk about feasts, business and everything.
Q. Were you there when he left for Spain?
A. Yes.
Q. Where did he take the launch when he went to Spain?
A. On the Escolta, back of the house.
Q. Who was present when he left for Spain?
A. How can you expect a person to notice the people around while saying goodbye to a dear member of the family. I do not know, we were all there. I do not remember.
Q. How long before did you arrive at the house?
A. We were all there since early in the morning.
Q. Do you remember whether Antonio Enriquez had a servant who helped and waited on him?
A. None.
Q. Do you remember the names of the servants who were there?
A. I do not.
Q. Do you remember the names of the persons who were present when he left?
A. I cannot state the name- of the persons who were there.
Q. Who went away with him?
A. His son Antonio and his daughters, Concha, Trinidad,
134 Carmen, and that's all—Paulina, a Chinese servant.

Q. That's all.

Questions by Mr. CHICOTE:

Q. When you bought the property from Victoriano Reyes and you paid him the 2,500 pesos, where was the money delivered?
A. At the same house.
Q. Prior to the execution of the instrument?
A. The day before he gave me a receipt and on the following day he sent me the deed and on the following day I went to the Notary for the purpose of signing the deed.

Q. That's all.

Questions by Mr. MONTAGNE:

Q. Where is the receipt that Victoriano Reyes gave you?
A. The receipt was destroyed at the time the deed was executed.
Q. They you do not have that receipt in your possession, have you?
A. Having the deed, what was the use of having the receipt too? It was unnecessary and worthless, and it was destroyed.

Q. That's all.

I certify that the foregoing is a true transcription of the testimony of Carmen de la Cavada de Enriquez taken at her residence No. 296 Calle San Sebastian, Manila, P. I., on the 29th of May, 1902, at 9.30 a. m.

(Sgd.) JULIO GIMENEZ JEREZ,
Official Stenographer.

135 Continuation of the Trial.

Testimony of Victoriano Reyes.

Having been duly sworn, stated that his name was Victoriano Reyes, residing at No. 75 Benavides, Manila.

Questions by Mr. MONTAGUE:

Q. How long have you lived in Manila?
A. Ever since I was born.
Q. How old are you.
A. 61 years.
Q. Do you know Francisco Enriquez?
A. Yes.
Q. Do you know Carmen de la Cavada de Enriquez, the wife of Francisco Enriquez?
A. Yes.
Q. Did you know Francisco Enriquez and Carmen de la Cavada de Enriquez in the year 1884 and prior thereto?
A. I cannot state the dates exactly, but I think I did.
Q. In the early part of 1884 were you a party to the purchase of a piece of property on La Riverita?
A. Yes.

Q. I beg leave to introduce in evidence a copy of a deed of sale of a building and lot executed by Francisco Enriquez, as attorney in fact for his father, in favor of Victoriano Reyes, said copy being duly certified to be — the custodian of the archives of protocols of the city of Manila.

The document is admitted and marked exhibit "A."

Q. Mr. Montagne, after reading the document to the witness, asked him whether he was the person mentioned therein as purchaser of the property in question and the witness said yes.

Q. Can you state the amount paid by you to Francisco Enriquez for that property?
A. Nothing at all.
136 Q. Who asked you to buy that property?
A. Don Francisco Enriquez asked me whether I wanted to buy it?
Q. Do you remember what Francisco Enriquez said to you when he asked you to buy the property?
A. I do not. I don't care to lie.
Q. Do you know for what purpose you received the deed of sale of the property in question?

A. I remember that the property was to be resold a few days later to Carmen de la Cavada de Enriquez.

Q. Did Francisco Enriquez tell you that such was his purpose?

A. Yes.

Q. Did you execute a conveyance of the property after the execution of the deed I have just read with reference to the same property?

A. Naturally I did.

Q. In whose favor was the deed executed by you?

A. In favor of Carmen Cavada de Enriquez and it must be so stated in the deed.

Q. I offer in evidence a certified copy, the same as the other, of the deed of sale executed by Victoriano Reyes in favor of Carmen de la Cavada.

The COURT: The document is received in evidence and marked exhibit "B."

Q. When you executed the deed I have just read in favor of Carmen de la Cavada, how much did you receive for the conveyance of the property.

A. Nothing at all.

Q. Who asked you to execute that deed?

A. Francisco Enriquez.

Q. Did you go to the house of Carmen de la Cavada before
137 the deed was executed?

A. I do not remember.

Q. State whether or not it is true that Carmen de la Cavada paid you the sum of 2,500 pesos at her own house?

A. Not having delivered anything, how could I expect any payment?

Q. Did you give Carmen de la Cavada a receipt for that amount?

A. I do not remember anything except the instrument.

Q. Did you know Antonio Enriquez?

A. Only by sight.

Q. Do you remember if at the time of the execution of that instrument Antonio was in Manila?

A. I do not remember.

Q. That's all.

138 Mr. Chicote stated that he objected to the testimony of this witness and alleged that according to the public instrument introduced in evidence the witness has heretofore made statements inconsistent with his present testimony.

Mr. Montague objected to Mr. Chicote's statement, saying that he should prove on cross examination that the witness was not worthy of credence.

Questions by Mr. CHICOTE:

Q. How long have you know- Francisco Enriquez and Carmen de la Cavada?

A. Before the execution of that instrument.

Q. How long before?

A. I cannot give the date exactly.
Q. Were you intimate friends?
A. Yes, somewhat.
Q. Did you frequent the house of Francisco Enriquez?
A. No.
Q. Did they visit your house?
A. No.
Q. Did you lie when you executed that instrument, did you make a false statement in a public instrument?
A. I simply did it to accom-odate Francisco Enriquez
Q. Are these statements false?

Mr. MONTAGNE: We object to that question which is simply an inference from the witness' answer.

A. I thought I was acting honestly.
Q. You mean to say that whatever you did in connection with that instrument was in the belief that you were doing the right thing?
A. Yes, because Francisco Enriquez, being both a lawyer
139 and a judge, it was his obligation to know whether it was false or not, and I simply rendered my assistance to obviate difficulties and do him a favor.
Q. Did you and Francisco Enriquez execute any instrument at all
A. A deed of sale was executed by me in favor of Doña Carmen.
Q. Besides this deed, did you execute any other instrument whereby you acquired a part of the estate of Antonio Enriquez belonging to Jorge Enriquez?
A. Yes.
Q. Did you pay the price of that sale?
A. No.

Mr. CHICOTE: In order to prove that what the witness has just testified is false, I offer in evidence the deed of sale of a part of the estate executed by the witness and Francisco Enriquez. This instrument is numbered 708, having been executed in the year 1885 before the Notary Public Enriquez Barrera and is attached to the record of the proceedings relating to the partition of the inheritance of Antonio Enriquez pending in this Court, which said proceedings are entitled "Estate of Antonio Enriquez y Sequera," bearing No. 48 of the files of this Court.

Q. How long since you ceased to be a friend of Francisco Enriquez and Carmen de la Cavada?
A. A short time ago.
Q. Why did you cease to be their friend?
A. Nothing at all.
Q. Is there any ill feeling between you now?
A. Not on my part.
Q. Don't you remember that prior to the execution of that conveyance to Carmen de la Cavada you gave her a receipt for the sum of 2,500 pesos before the deed was executed?
140 A. I do not remember.
Q. When did you call at the house of Carmen de la Cavada last?

A. A few years ago, but I called in connection with an entirely different matter, I do not remember whether it was about some Chinaman or what it was. . . . I don't remember. As far as the sale to this lady is concerned I did nothing but facilitate the transaction by signing the deed which I thought was al- right. I was acting in good faith and Mr. Enriquez I think also acted in good faith, he submitted the papers to me for my signature and I signed them. That's all.

Q. What did you say?

A. I acted like a clerk.

Q. That's all.

Questions by Mr. MONTAGNE:

Q. Is Jorge Enriquez still living?

A. I think he is dead.

Q. Did you say he was dead?

A. At least, so they say.

Q. When you executed — to which Mr. Chicote refers dated Nov. 14, 1885, who asked you to put your name in it as purchaser?

A. I think it was by agreement between the two brothers.

Q. Do you remember who asked you to give your name or to consent to your name appearing as purchaser of the property?

A. I think it was Francisco Enriquez.

Q. How much did you pay for the property?

A. Nothing.

Q. Do you remember whether subsequent to the execu-
141 tion of that instrument you executed a conveyance in favor of the person mentioned therein?

A. When I bought that right, I never made any use of it at all. I don't remember.

Q. Don't you remember whether you executed that instrument in favor of Carmen de la Cavada de Enriquez?

A. I do not remember whether it was in favor of Catmen de la Cavada . . . or in whose favor.

Attorneys Montagne and Chicote then stipulated that instrument No. 205 be admitted in evidence for both parties.

Q. When you executed that deed of the 15th of April in favor of the wife of Francisco Enriquez, how much money did you receive in payment therefor?

A. Not having paid anything, I could not have received anything at all.

Q. At whose request did you execute that instrument?

A. Probably at the request of Francisco Enriquez.

Q. Prior to the execution of that deed, did you have a talk with Carmen de la Cavada?

A. Not a word has passed between her and myself with reference to this matter.

Q. Did you speak to her with reference to the instrument of November?

A. No, with reference to these matters not a word ever passed between her and myself.

Q. You say that Francisco Was an attorney at law?

A. Yes sir, and he is.

Q. Was he a judge of the Court of First Instance?

A. I don't know but he was once a judge of a court of
142 First Instance.

Q. That's all.

The COURT: Next witness.

Testimony of Francisco Enriquez.

Having been duly sworn, testified that his name was FRANCISCO ENRIQUEZ, residing at No. 296 Calle San Sebastian, Manila, and an attorney at law, not practicing at present.

Questions by Mr. MONTAGNE:

Q. How old are you?

A. 48 years.

Q. Are you the oldest son of Antonio Enriquez y Sequera?

A. Yes.

Q. Did you reside in the city of Manila in the years 1882, 1883 and 1884?

A. In the year 1883 I resided in Manila.

Q. And in 1882?

A. I don't remember whether I was in Manila or in the provinces.

Q. I show you this document and will ask you to state whether you recognize it. (Exhibiting to the witness a letter appearing on page 22 of the record of Criminal Case No. 21.)

By the COURT:

Q. What is that document?

A. It is a letter signed by me and addressed to Rafael Enriquez when he was in Paris, dated Dec. 30, 1882.

Mr. MONTAGNE:

Q. Do you recognize that letter?

A. Yes.

Q. I offer in evidence in this case the letter referred to by the witness, appearing on pages 22, 23, 24 and 25 of the record
143 of the case against Francisco Enriquez, instituted in the Court of First Instance of Binondo, for making a false statement in a public document, which said case number 21.

A copy of the said letter introduced in evidence by Mr. Montagne is allowed by the Court and marked Exhibit "C."

—. MONTAGNE: I have nothing further to ask the witness.

Mr. Chicote asked the witness no questions.

The COURT: Witness dismissed.

Mr. MONTAGNE: I now offer in evidence a medical certificate the original of which is in the French language, and the translation is as follows: (Mr. Montagne read the certificate to the Court.)

Mr. Chicote stated that he left it to the Court to decide whether the certificate should be admitted in evidence.

The Court allowed the document to be filed, stating that counsel for the defendant could say whatever he wished to say later in regard to the value of the same.

The said document was marked Exhibit "D" and its translation Exhibit "E."

Q. That's all.

Testimony of Vicente Collado.

Having been duly sworn, said that his name was VICENTE COLLADO, a resident of Manila and a painter by profession.

Questions by Mr. MONTAGNE:

Q. How old are you?
A. I am 42 years of age.
Q. How long have you lived in Manila?
144 A. Since I was a child.
Q. How long have you been a painter?
A. Since 1880.
Q. Do you know the property here in question, situated on the Riverita?
A. Yes.
Q. Have you any knowledge as to the value of property in Manila?
A. Yes.
Q. In your judgment, what is the value of that property?
A. It may be worth 16,000 pesos, the rent being 160 pesos.

Mr. CHICOTE: I object to the question, because the witness has not testified that he is an expert in appraising real estate, but simply that he is a painter by occupation and I don't think that a painter can scientifically estimate the value of a piece of real estate.

Q. Are you an architect?
A. I know something about architecture.
Q. Have you a diploma?
A. No, but sometimes I can tell the price of property.
Q. What is your occupation?
A. I am a painter.
Q. What is your opinion with reference to the value of the property in question?
A. The property may be worth 16,000 pesos, the annual rent being 160 pesos.
Q. That's all.

Questions by Mr. CHICOTE:

Q. By what means do you ascertain the value of any given
145 property?

A. You mean now at the present time?

Q. By what method do you ascertain the value of a piece of property?

A. At the present time a piece of property valued at four or five thousand pesos may be worth two hundred pesos.

Q. Suppose a piece of property which produces 175 pesos rent, how do you determine the value of that property?

A. I take it that it cannot be worth more than ten per cent.

Q. A piece of property renting at 275 pesos, what do you think is the value of it, can you show me how you arrive at the actual value of the property?

A. I don't know about that.

Q. Don't you know how to figure it out?

A. Please excuse me, I have not got that far yet.

Q. After examining the building, for instance, can you determine the value of the foundation, the amount of labor in it, the cost of the lumber used in it, and the class of material employed in its con*sur*ction?

A. Yes.

Q. How do you ascertain the value of all those things?

A. Well that depends.

Mr. MONTAGNE: I object to those questions as immaterial and improper cross examination.

The COURT: Counsel has a right to enquire into the intel-igence of a witness with reference to his knowledge of the subject.

Q. Do you know how to figure that out?

A. I can tell, because if I see this war*brode* here, after I examine it, I can tell how much it is worth.

146 Q. Considering your knowledge on the subject, do you feel yourself competent to fill an official position in which it would be your duty to determine the value of some of the houses in Manila?

A. I would accept the position if I had money.

Q. Suppose for instance that you were offered a position by the Government and you had to appraise the real estate in Manila, would you accept that position?

A. If I had money, I would. How are they going to offer me such a position when they don't know me and I haven't got money?

Q. That's all.

The Court then adjourned until 3 P. M.

I certify to the correctness of the foregoing testimony.

(Sgd.) JULIO GIMENEZ JERES.

MAY 29TH, 1902.

Second Session.

Mr. Montagne introduced in evidence a certificate issued on the 31st of December, 1897, by the Commanding Officer of the Marine Forces for the Province of Manila, showing the date on which Antonio Enriquez sailed for Spain.

The Court let it be admitted in evidence, marked Exhibit "F."

Mr. Montagne then asked the Court to receive the testimony of Luis Quintos.

Testimony of Luis Quintos.

Having been duly sworn, in accordance with law, testified that his name was Luis Quintos, a resident of the district of San Sebastian, Manila, and a sanitary inspector.

Questions by Mr. MONTAGNE:

Q. How old are you.

147 A. 43 years.

Q. How long have you been living in Manila?

A. Since I was born.

Q. Did you know Antonio Enriquez? and his Sons?

A. Yes.

Q. Did you know him while in Manila in the years 1882 and 1883?

A. Yes.

Q. Do you remember whether Antonio Enriquez was sick during the years 1882 and 1883.

A. Yes.

Q. Did you call at the house of Antonio Enriquez at any time during his illness?

A. Two or three days after he was taken sick I went to see him.

Q. In what month and year was he taken sick and you went to see him?

A. In the month of October, I don't remember the date.

Q. Do you remember the year.

A. I do not.

Q. With reference to the departure of Antonio Enriquez *to* Spain can you remember the month and year when you visited him?

A. In the month of October of the previous year, 1882.

Q. Where did Antonio Enriquez live at the time you first went to see him?

A. On Calle David, No. 4.

Q. Did you visit him again after that date?

A. Yes, I let some time go by, because the first time I went there he was sick and my idea was to settle some family affairs with him, after that I went to the Escolta whither he had removed a few days after he was taken ill.

Q. Do you remember about how long he lived on the Escolta before he left the Islands.

148 A. Three or four months.

Q. Did you visit Antonio Enriquez on the Escolta before he went away?

A. Long before he went away in the month of March.

Q. When you first visited Antonio Enriquez on Calle David, did you speak to him?

A. Yes; but I was unable to speak to him because he was paralyzed and deprived of his reason and speech. He was in bed.

Q. Did you speak to him?

A. I spoke to him, but he did not answer.

Q. How did he answer?

A. It was impossible to understand what he said.

Q. Did you understand what he wanted to say?

A. No.

Q. Can you tell whether or not when you visited Antonio Enriquez on Calle David in the month of October, 1882, he was in bed? or on his feet?

A. He was in bed.

Q. Did you notice whether Antonio Enriquez moved in his bed?

A. No.

Q. You have stated that after that visit, shortly afterwards, about the time he was taken sick, he removed to the house on the Escolta?

A. Yes sir*m* he moved to the Escolta shortly afterwards; some fifteen or sixteen days later he removed.

Q. You said that you visited him on the Escolta, did you not?

A. Yes sir, two or three times.

149 Q. What house was that on the Escolta?

A. House number fourteen.

Q. You mean the English Drug Store?

A. Yes.

Q. When you visited Antonio Enriquez on the Escolta were you able to speak to him?

A. I spoke to him but I did not get any answer to my question.

Q. Did you at any time understand what Antonio Enriquez said to you when you *taken* with him on that occasion on the Escolta?

A. Sometimes yes, but he taleked about something different from what I spoke of.

Q. How did he answer?

A. He stammered. When I asked him any question, he answered something different, and as I went there on an important matter, being unable to talk with him with reference to that matter, I did — speak to him any more.

Q. When you visited him on the Escolta, was he in bed or on his feet?

A. He was in bed.

150 Q. Did you notice whether Antonio Enriquez moved in his bed?

A. I did not see him move or get up from his bed, because he was always lying there.

Q. At the various times that you called on Antonio Enriquez, at

his house on the Escolta or on Calle David, did he ever speak to you in such a manner that you could understand what he said?

A. No.

Cross-examination by Mr. CHICOTE:

Q. Do you remember on what day you saw Antonio Enriquez on the Escolta?

A. In the month of October, 1882, I went to see him on Calle David.

Q. And on the Escolta?

A. In the month of March; I do not remember the year, because this happened long ago.

Q. Did you call on him again?

A. In the month of March I went there, but I cannot remember the day.

Q. The first time, what did you do on the Escolta?

A. I intended to see Don Antonio about an important matter, but I let several days go by because I could not transact any business with him.

Q. On the various occasions that you have stated that you called on Antonio Enriquez, how long did you talk to him?

A. The first time about five minutes, because when I learned that he was sick I left the house.

Q. And the second time?

A. Five or ten minutes.

Q. And the third time?

A. The same.

151 Q. Do you remember having testified as a witness in a criminal case against Francisco Enriquez in the Court of First Instance of the District of Binondo that you had had a conversation with Antonio Enriquez for about a half hour?

Mr. MONTAGNE: I object to the question because counsel should present the testimony to the witness and fix the date.

The COURT: The witness has a right to know what appears in the record with reference to the testimony, and counsel must ask his question with reference to it.

Mr. CHICOTE:

Q. Do you remember whether you testified in a criminal case against Francisco Enriquez in the Court of First Instance in the District of Binondo?

A. Yes.

(Mr. Chicote read the witness' testimony, appearing in the record of Criminal Case 21, of the Court of First Instance of Binondo against Francisco Enriquez for "Falsidad" (false statement in a public statement) pages 35, 36, 37, 38 and 39.)

Mr. CHICOTE:

Q. Do you remember having testified in that case on that same

afternoon he was taken sick in the year 1882 you went to see him on the Escolta?

A. Yes, sir.

Q. How can you explain your statement that you went to Antonio Enriquez' house three or four times after he fell ill when, as a matter of fact, you went there on the afternoon he was taken sick?

A. I did not say I went to see him before he was taken sick. When I learned that he was sick on Calle David and when he was thereafter removed to the Escolta and while on the Escolta, I
152 visited him. It may be that it was two or three times; I cannot state the dates exactly, but the afternoon he was taken sick I went to see him on Calle David.

Q. Do you remember that the afternoon he was taken sick was in the year 1882?

A. I am not sure about the dates. The afternoon I learned he was taken sick, as soon as I was informed of this fact, I went to see him, and when I arrived at this house the family was very much alarmed to ascertain whether or not he was sick.

Q. You have just stated that it was two or three days after you learned that he was sick that you visited on the Escolta and that it was on the Escolta that he was taken sick. Mr. Calderson asked you the following question: "Was it on the day that he was taken sick?" and you answered, "It was when he was carried there, the same day he was taken sick," and you further answered, "I learned of his being sick on the same day about 7 o'clock in the evening."

A. That statement is not correct. Fifteen or twenty *minutes* after he was taken sick he was removed to the Escolta. As I did not live with him, I do not know whether he was taken there on the same day or whether it was some days afterwards. I cannot state the year and date, because this happened a long time ago, but I formerly visited him on Calle David.

Q. Then you were asked, "Do you remember having called on Don Antonio Enriquez for the purpose of speaking to him about the matter of your wife?" and you said, "At first I went there twice and I went there again, but as on all three occasions I realized I
153 could not get anything out of it, I put the matter in the hands of my lawyer, and did not go there again with reference to this matter."

A. That answer has been changed. I did not say that. I only went once to Calle David. I refer to the two visits on the Escolta, because I did not have time to go to Calle David, and I did not want to insist for the reason that I knew that I could do nothing with reference to the matter. In the month of March I made my last visit.

Q. Do you remember on what date Antonio Enriquez was removed from Calle David to the Escolta?

A. No.

Q. And how is it that you have previously stated that it was some fifteen days after that he was taken sick that he was removed to the Escolta? Do you know when he was removed?

A. I do not remember the date, but it was several days afterwards when he was removed to the Escolta.

Q. Were you present the day he was removed?
A. No.
Q. Did you see him when he was removed?
A. No.
Q. And how was it that you have testified that he was removed some fifteen days afterwards?
A. Because I could know it without having been present.
Q. Did you visit Antonio Enriquez in the month of October on the Escolta?
A. No.
Q. Did you visit him in the month of November?
A. No.
154 Q. And in the month of December did you visit him?
A. No.
Q. And in the month of January?
A. No.
Q. Did you visit the family on the Escolta and on Calle David in the month of October?
A. Yes, on Calle David.
Q. Did you visit him the same month of October on the Escolta?
A. No.
Q. In the month of November?
A. No.
Q. In the months of December, January and February?
A. No; until March.
Q. How did they tell you that he had been removed fifteen days afterwards?
A. I was told so two or three days after he was removed on the Escolta, but I did not want to see him until I was informed that he intended to go to Spain.
Q. You mean to say that you saw Antonio Enriquez on the last two occasions on the Escolta on the eve of his departure for Spain?
A. It was in the month of February or March, the last time was in March.
Q. Was the other time in February or March?
A. The last time was in the month of March; I do not remember whether it was in February or March, but the last two visits I made while he was on the Escolta.
Q. State positively how many times you visited Antonio Enriquez during his illness?
A. Three times.
155 Q. Only three times?
A. Yes.
Q. One in the month of October?
A. Yes
Q. One in the month of October?
A. Yes.
Q. The other times that you visited Antonio Enriquez were on the Escolta, were they not?
A. Yes, sir.

Q. You are positive that he was removed to the Escolta some fifteen days after he was taken sick, are you not?
A. Yes, sir.
Q. Are you sure that you did not call four times on Antonio Enriquez?
A. Yes.
Q. You mean to say that you did not succeed in speaking to Antonio Enriquez, but that you saw him?
A. Yes.
Q. You did not succeed in speaking to Antonio Enriquez on the two occasions that you saw him, did you?
A. No, sir.
Q. Did you speak to him the last time that you saw him?
A. Yes, but it was a very commonplace conversation, on no particular subject.
Q. What did you say to Antonio Enriquez?
A. I asked him about the business.
Q. What did he answer?
A. Something very different from what I talked to him of.
Q. How long did you talk to Antonio Enriquez?
A. I cannot say, a very short time, some ten or fifteen minutes at least. I did not stay there very long, because I realized that it was impossible to speak with him.
156 Q. Did you see Antonio Enriquez on the day he left for Spain?
A. No.
Q. Did you see him go?
A. No.
Q. Do you remember having seen Antonio Enriquez on the fifth of March, 1883?
A. That was on my second visit; I cannot say exactly.
Q. Can you state whether or not he was there?
A. I cannot say.
Q. Was Don Antonio Enriquez improving from his illness?
A. I have already stated that the family claimed that he was improving, but I could only see him the third time I went there.
Q. The third time you saw him, was he in the same condition and the same state of illness?
A. I always found him in bed.

Mr. MONTAGNE: I object to the question because the witness is not qualified as an expert in medicine.
The COURT: The witness may answer and counsel has a right to ask the question.

Mr. CHICOTE:

Q. Can you state positively whether or not he had improved?

Mr. MONTAGNE: I object to the question on the same grounds.
The COURT: The witness may answer.
Mr. MONTAGNE: Exception.

A. I understood that he was seriously ill, and the two occasions

on which I went there I found him lying in bed and he was unable to speak.

Q. Do you remember about what matter you desired to
157 speak to Antonio Enriquez?

A. Family affairs.

Q. What affairs were those?

A. The condition of the matters relating to the partition of certain property belonging to my family.

Q. What was it that you wanted from Antonio Enriquez?

A. To make the matters clear to me and to see whether there was some way of settling all these affairs.

Q. You mean to say that you were unable to understand what he said?

A. When he answered me he referred to other matters which were entirely different, and as I saw that it was impossible to speak with him about the matters which concerned me, I did not think it proper for me to bother him any more, because I realized that he was sick and that it was impossible for him to understand what he was saying.

Q. Did Antonio Enriquez answer your questions?

A. Yes, but I could hardly understand his answers.

Q. But he did answer you, did he not?

A. Yes, sir.

Q. And you understood what he said?

A. No, I was unable to understand what he was saying. Sometimes he would say certain words that were absolutely incoherent and entirely different from the subject, and it was impossible to make any sense out of it.

Q. How many questions did you ask Antonio Enriquez?

A. Two or three questions. I asked him how he was and how were our matters getting along.

158 PLAINTIFFS' EXHIBIT 4.

Testimony of Pascual Reyes.

PASCUAL REYES, residing at 213 Calle Gandara, having been first duly sworn, testified as follows:

Examination by Mr. MONTAGNE:

Q. What is your age?

A. Fifty-five years.

Q. How long have you resided in Manila.

A. For a long time.

Q. How long?

A. Forty-five years.

Q. Did you know Antonio Enriquez in his life time?

A. Yes.

Q. Do you remember the date on which Antonio Enriquez left for Spain?

A. No.

Q. Were you present when Antonio Enriquez sailed for Spain?
A. Yes.
Q. Where were you living at that time?
A. With Antonio Enriquez.
Q. Were you an employee of the house of Antonio Enriquez?
A. Yes.
Q. What was your employment there?
A. As a servant.
Q. Do you remember when Antonio Enriquez lived on Calle David?
A. Yes.
Q. Were you there employed as a servant?
A. Yes.

159 Q. Do you remember when Antonio Enriquez was taken sick before he left for Spain?
A. Yes.
Q. Where did Antonio Enriquez live when he was taken ill?
A. On Calle David.
Q. Do you know whether, shortly after he was taken ill, he was removed to some other place?
A. Three weeks after he was taken sick he was removed from Calle David to the Escolta.
Q. That house on the Escolta is the house now occupied by the English drugstore, is it not?
A. Yes.
Q. Were you in the house of Antonio Enriquez—I mean the house on the Escolta—until he left for Spain?
A. Yes.
Q. When Antonio Enriquez removed from the house on Calle David to the house on the Escolta, can you state whether he was able to walk by himself?
A. No, sir; In a carriage.
Q. Did he walk from his room to the carriage?
A. No.
Q. How was he taken from the room to the carriage?
A. They carried him on a chair.
Q. Who carried him.
A. Myself and another boy.
Q. During the illness of Antonio Enriquez on Calle David and before he removed to the Escolta, did you ever speak to him?
A. No.
Q. Do you know whether Antonio Enriquez could speak at that time?

160 A. No.
Q. Could Antonio Enriquez speak or not at that time?
A. He could not.
Q. During his illness on Calle David could Antonio Enriquez walk by himself?
A. No.
Q. Can you state whether Antonio Enriquez during his illness got up from his bed?

A. He could not get up.
Q. Who helped him to get up from the bed?
A. I.
Q. During his stay in the house on the Escolta, and prior to his departure for Spain, did you or did you not live in the house on the Escolta with Antonio Enriquez?
A. Yes.
Q. Did you see Antonio Enriquez every day?
—. ——.
Q. Who changed his clothes for him?
A. The girls.
Q. Did you perhaps help in changing his clothes?
A. I helped them, because he was unable to move his body.
Q. Do you know who was the personal servant of Antonio Enriquez until his departure for Spain?
A. The girls and myself.
Q. During the stay of Antonio Enriquez in the house on the Escolta, until the time of his departure for Spain, did you ever hear him speak?
A. No.
Q. Could Antonio Enriquez speak at that time?
A. He could not speak.
Q. Can you state to the court the manner in which he made himself understood?
161 A. By signs.
Q. With which hand.
A. With the left.
Q. While you were in the house of Antonio Enriquez on the Escolta, and during his illness, could he move from his bed?
A. He could not move; he required assistance.
Q. Could he sit up in bed without assistance?
A. No.
Q. Who helped him to sit up?
A. Myself and the girls.
Q. When Antonio Enriquez left for Spain, where did he take the launch that took him to the boat?
A. On the Escolta, Number fourteen.
Q. You mean on the river, back of the house?
A. Yes.
Q. When Antonio Enriquez went from his room to the launch, did he walk?
A. No.
Q. How did he go from his room to the launch?
A. They put him on a chair and carried him to the launch.
Q. Who carried him?
A. Myself and another boy.
Q. You say that during Don Antonio's illness you assisted him every day until he left for Spain?
A. Yes.
Q. Were you there during the night?
A. Yes.

Q. During all that time of Don Antonio's illness, from the time he was taken ill on Calle David until his departure for Spain, did you hear him speak in a manner that you could understand?

162 A. No.

Q. During all the time referred to in the previous question, did you ever see Don Antonio sit up in bed without assistance?

A. He could not sit up without assistance.

Q. During all that time to which you refer, could Don Antonio walk by himself?

A. No.

Q. During that time did you see Don Antonio change his position while in bed without anybody's assistance?

A. He could not turn himself over unassisted

Q. Can you state whether you ever saw, at the house of Antonio Enriquez on Calle David or on the Escolta, Carmen de la Cavada, the wife of Francisco Enriquez?

A. No, sir.

Q. Do you know whether Doña Carmen de la Cavada, the wife of Francisco Enriquez, visited the house?

A. No.

Q. Did she or did she not visit the house?

A. No.

Q. Do you know the reason Doña Carmen de la Cavada, the wife of Francisco Enriquez, never visited the house of Antonio Enriquez?

A. I do not know.

Q. During the illness of Antonio Enriquez, did you ever see any person or persons coming to the house of Antonio Enriquez, or the latter sign any document?

A. No.

Q. Did you ever see any person during Don Antonio's illness read any document to him or any person sign any document before him at his direction?

—. ——.

163 That is all.

Examination by Mr. CHICOTE:

Q. When did you enter the house of Antonio Enriquez as a servant?

A. I do not remember the month or the year.

Q. Was it prior to the earthquakes in Manila in the year 1880?

A. At the time of the earthquakes.

Q. Was it long before or long after?

A. Some four months afterwards I entered their house.

Q. At the time you entered the house as a servant, was Antonio Enriquez sick?

A. Not yet.

Q. How long after the earthquakes was Antonio Enriquez taken ill?

A. I do not remember how many years afterwards.

Q. At the time of the big typhoon that struck Manila, after the earthquakes in the year 1880, was Antonio Enriquez sick?

A. Not yet.
Q. At the time of the big cholera in Manila was Antonio Enriquez sick?
A. Not yet.
Q. How long after that typhoon was he taken ill.
A. Some four months after that.
Q. You mean after the typhoon?
A. Yes.
Q. Where was Antonio Enriquez taken sick?
A. On Calle David, Number four.
Q. How long was he sick there, on Calle David?
A. Three weeks; afterwards he was removed to the Escolta.
164 Q. Which of Antonio Enriquez'- children lived with him on Calle David?
A. Tula, Nena, Concha, Antonio, Cayetano—that is all.
Q. What persons outside of the family visited Antonio Enriquez while he was sick on Calle David?
A. I did not see anybody.
Q. When he was removed to the Escolta, did you see any person, outside of the members of the family, talk to Antonio Enriquez?
A. I did not see anybody.
Q. Were you always by Don Antonio Enriquez'- side?
A. Yes.
Q. Were you present the day Antonio Enriquez left for Spain?
A. Yes.
Q. Who, outside of the members of the family, were there on that day?
A. Nobody, except his children.
Q. Was Francisco Enriquez there on that day?
A. Yes.
Q. Was Francisco Enriquez'- wife there?
A. No.
Q. After Antonio Enriquez left for Spain, where did you stay?
A. On the Escolta.
Q. With whom?
A. With Don Antonio.
Q. After Don Antonio left, where did you go?
A. I went to live with my friends in Trozo.
Q. What province are you from?
A. From Bisayas.
Q. From what Town?
A. From Surigao.
165 Q. How long have you been here in Manila?
A. Forty-five years.
Q. How did you come to Manila, and with whom?
A. I was very young. I used to travel with my friends, and that is how I came to Manila.
Q. Antonio Enriquez, during the time you saw him, day and night, was unable to speak, was he?
A. He was unable to speak.

Q. Did he not speak with the people that called on him or with his own children?
A. No.
Q. Did you ever see Antonio Enriquez walking along the corridor of his house?
A. No.
Q. When Antonio Enriquez was sick—I mean at the beginning of his sickness—where did the children play inside or outside of Don Antonio's room?
A. The children were prohibited from playing.
Q. How old were they at that time?
A. They were very young.
Q. Did they go to school?
A. Not then.
Q. Was Antonio Enriquez in bed all the time?
A. Yes.
Q. Did he not go to his Office?
A. No.
Q. During that time that Antonio Enriquez was sick on the Escolta, did he go to his office?
A. No.
Q. Do you know whether during Antonio Enriquez' illness anybody visited him?
A. No, nobody.

166 Mr. CHICOTE: That is all.

Mr. MONTAGNE:

Q. Do you remember whether Don Antonio Enriquez at the beginning of his father's illness worked in some office during the day?
A. He did not work in any office.
Q. When the children of Antonio Enriquez left the house, do you know where they usually went?
A. No.
Q. Antonio Enriquez, when he left the house, did he not tell you where he was going?
A. No.
Q. When the girls left the house, do you know where they went?
A. No.
Q. When any person of the house went out, were you told where that person was going?
A. No.

167 JUNE 3RD, 1902.

III Session.

Testimony of Francisco Marquez.

Having been duly sworn in accordance with law testified that she was a resident of the city of Manila, domiciled on the corner or Numancia and Urbiztondo streets.

Questions by Mr. MONTAGNE:

Q. How long have you resided in Manila?
A. Many years.
Q. Do you know who occupies those premises now?
A. I do.
Q. From whom do you rent them?
A. From Francisco Enriquez.
Q. When did you rent the place?
A. Since the month of April.
Q. Of this year?
A. Yes.
Q. Can you state how much rent you pay for that property?
A. For the whole premises I pay 160 pesos per month.
Q. You mean from No. 76 to 84? Calle Numancia?
A. Yes, on the corner of Urbiztondo St.
Q. Did you occupy that place before the month of April?
A. No.

Q. That's all.

Questions by Mr. CHICOTE:

Q. Do you know how much rent that house produced prior to the month of April and before you leased the same?

A. Twelve pesos.

168 Q. Do you know how much the other rooms used to rent for?

A. I don't remember what they rented for.

Q. Have you ever seen a receipt or a contract with reference to those premises?

A. Mr. MONTAGNE: I object to the question on the ground that it is hearsay.

The COURT: I cannot allow the question because the receipt is the best evidence and the persons who rented those rooms can be called as witnesses.

Mr. CHICOTE: That's all.

169 PLAINTIFFS' EXHIBIT 5.

Testimony of Carmen Gonzales de Badolato.

CARMEN GONZALES DE BADOLATO, residing in the District of Sampaloc, being first duly sworn, testified as follows:

Examination by Mr. MONTAGNE:

Q. How long have you been in Manila.
A. I was born here.
Q. Were you in Manila in the years from 1882 to 1883?
A. Yes.
Q. Did you know Antonio Enriquez' family at that time?
A. I did.
Q. Did you know Antonio Enriquez y Sequera?
A. Yes.
Q. During the year 1882 did you ever visit Antonio Enriquez?
A. Two or three times, when he was taken ill.
Q. Do you remember when he was taken ill?
A. In October, 1882.
Q. Where was Antonio Enriquez living at that time?
A. On Calle David.
Q. Did you visit Antonio Enriquez during his illness.
A. Two or three times on Calle David during his illness.
Q. When you visited Antonio Enriquez on Calle David, did you speak to him.
A. I could not: He lost his speech, he was paralyzed; he could not speak.
Q. Did you ask him any questions?
A. Nobody could talk with him.
Q. Do you know whether Antonio Enriquez, when you saw him when he was ill, could walk without assistance?
A. He was in bed.
170 Q. Do you know whether he could move alone?
A. No: A servant and the girls had to help him to put on his clothes and to sit on a chair and sometimes in the bed.
Q. Did you hear Antonio Enriquez speak at any times that you went to visit him?
A. No.
Q. Do you know whether Antonio Enriquez continued to live on Calle David until he left for Spain?
A. Two or three times I went there after he was removed.
Q. Whither was he removed?
A. To the Escolta.
Q. During the time of Antonio's illness, did you visit him?
A. For about a month.
Q. After these visits during the month on Calle David, did you visit him again on the Escolta?
A. No. My husband used to go there almost every day, and he would tell me how he was getting along.

171 PLAINTIFFS' EXHIBIT 6.

Testimony of Agueda Esteban.

AGUEDA ESTEBAN, residing on Calle Poblete, and thirty-two years of age, being first duly sworn, testified as follows:

Examination by Mr. MONTAGNE:

Q. How long have you lived in Manila?
A. I was born here.
Q. Have you lived here all the time?
A. Yes.
Q. Did you know the family of Antonio Enriquez?
A. Yes.
Q. Did you know Antonio Enriquez?
A. Yes, because my father and my mother belonged there and spent their time there.
Q. Did you say that your family lived with Antonio Enriquez?
A. Yes.
Q. Did you know the children of Antonio Enriquez?
A. Yes.
Q. Did you visit the house of Antonio Enriquez frequently before he left for Spain?
A. We were all there.
Q. Do you remember the time or the date on which Antonio Enriquez left for Spain?
A. Yes, we were there all the time, because Miss Concha was my friend and we were girls about eight years of age.
Q. Do you remember whether before Antonio Enriquez left for Spain he was taken ill?
A. Yes.
172 Q. About what time was he taken ill?
A. I remember it when I was playing with Concha, and we were told that we could not play, because her father was sick.
Q. In what house were they living when he was taken sick?
A. On Calle David.
Q. Did he leave after he was taken sick and before he left for Spain?
A. No.
Q. Do you know whether he lived on the Escolta?
A. Yes, because one of the girls was my schoolmate, and her name was Concha.
Q. Where did Antonio Enriquez live before he left for Spain?
A. On the Escolta, in the house that is now occupied by the English drug store.
Q. Do you remember how long or about how long after Antonio Enriquez was taken sick that he remained in the house on Calle David before he removed to the Escolta?
A. I cannot say; I do not remember, but I think it was a short time—some three months, more or less; but I cannot remember exactly.

Q. Do you know about how long he lived on the Escolta before he left for Spain?

A. Some three months; I do not remember exactly.

Q. You said that you visited Antonio Enriquez during his illness when he was living on Calle David and when he lived on the Escolta?

A. I was there every day. When I left the Escolta, I went to Antonio Enriquez' house on Calle David and slept with his daughter,
Concha, because she was a very good friend of mine and
173 we were always playing together until the time of her father's death.

Q. During the time that you visited the house of Antonio Enriquez on Calle David, did you see him often.

A. Yes.

Q. Can you state whether during the time you visited Antonio Enriquez on Calle David, he could speak?

A. No.

Q. Could he or could he not speak?

A. He could not speak. The day he was taken sick I was over there in the morning, and the brothers told me, "Father is sick," and that is the reason why I went there every day until he left for Spain; and I went to the dock to say good-bye to Concha.

Q. During the time you visited Antonio Enriquez on Calle David, do you know whether he could speak?

A. No.

Q. Do you mean to say that you do not know, or that he could not speak?

A. That he could not speak.

Q. Could he walk alone?

A. No.

Q. Could he move?

A. No. He had to be assisted by the girls or by the servants.

Q. During the time you visited Antonio*n* Enriquez on the Escolta until the time of his departure for Spain, on the Escolta, did you visit him frequently?

A. I was there; I used to go into the room, and sometimes I carried cups for him to drink from.

Q. You went there every day?

—. ——.

174 Q. And did you ever sleep at the house on the Escolta, where the English Drug Store is at present?

A. Yes, because on Thursdays, Saturdays and Sundays, when the school was closed, I used to spend the night with them.

Q. During the time that you visited the house of Antonio Enriquez on the Escolta, did you see him every day?

A. Yes; I had to say, "How are you" every day.

Q. Did you ever hear Antonio Enriquez speak?

A. No.

Q. Do you know whether he could or could not speak?

A. He could not speak; on account of his illness, he was very weak.

Q. Could he walk alone?

A. No.

Q. Could he move at all?

A. No, he could not move on account of his illness, he was assisted by his daughters.

Q. Were you present when he was removed from Calle David to the Escolta?

A. Yes, I was in company with Miss Concha.

Q. How was Antonio Enriquez taken out of the house on Calle David when he was removed to the Escolta?

A. He was taken by the servants on a chair and took in a carriage, and the servants took him in that carriage to Escolta, put him on the chair again and carried him upstairs.

Q. Were you present on the Escolta when he left the Islands?

A. You mean Antonio*n* Enriquez for Spain?

Q. Yes. How was he put aboard?

A. They took him down the steps. On the right of the
175 steps there was a room in which Don Antonio Enriquez was lying, and he was taken from that place to the first entrance to the steps on the left going into the room, and from there was taken directly to the boat.

Q. You mean on the river, near the house?

A. Yes.

Q. You mean to say that there was a sort of a landing place by the door and that he was taken to that place?

A. Yes.

Q. Do you know whether he walked alone?

A. No, he was taken down on a chair.

Q. Did you ever see, during his illness and during his stay there on Calle David or on the Escolta—did you ever see Antonio Enriquez move alone while in bed?

A. He could not move without assistance.

Q. Do you know whether he had somebody to help?

A. Yes.

Q. Who?

A. The children, sometimes the servants.

Q. Did you observe during the time you visited those two houses the manner in which Antonio Enriquez ate?

A. Yes.

Q. How did he?

A. The girls would feed him with a spoon.

176 Q. Do you know whether he could hold the spoon with his own hand?

A. No, the girls had to hold it for him.

Q. Did you ever see, during Antonio Enriquez' illness, that he ever made use of his hands to eat with?

A. No.

Q. Did you ever see, during the illness of Antonio Enriquez, either on Calle David or on the Escolta, any person or persons call on him and ask him to read or write or sign any document?

A. I did not see any.

Q. Do you know the wife of Francisco Enriquez?

A. Yes.

Q. Carmen de la Cavada?

A. Yes, because my brother was employed in her house, and when my brother left there—because he was sick—he went back to the house in order to speak to Don Francisco's wife, but he was told to get out, and then * * *

Q. During the illness of Antonio Enriquez, on Calle David or on the Escolta, did you ever see the wife of Francisco Enriquez in that house?

A. No.

Q. Did you see the wife of Francisco Enriquez in the house of Antonio Enriquez when the latter left for Spain?

A. No, she was not there.

Q. On any occasion, or during the time you visited Antonio Enriquez, either on the Escolta or on Calle David, did you see Francisco Enriquez' wife there?

A. No; since I was very young—about eight years old—up to that time I never saw her there.

Q. Do you know the reason why she did not visit the house
177 of Antonio Enriquez,—I mean the wife of Francisco Enriquez?

A. No.

Q. That is all.

Cross-examination by Mr. CHICOTE:

The witness has testified as to the state of illness of Antonio Enriquez, in criminal cause 21 against Francisco Enriquez, for making a false statement in a public instrument, and I want to ask the witness whether she gave that testimony about the middle of the year 1901.

Mr. MONTAGNE: I object to the reading of any testimony given by the witness in a previous action.

The COURT: It is proper: Counsel has the right to read the questions to the witness, and the witness must explain whether or not, if she deems it necessary.

(Mr. Chicote reads the testimony of the witness from the record of Case No. 21 against Francisco Enriquez, instituted in the court of first instance of the District of Binondo, for making a false statement in a public instrument, which said testimony thus read by Mr. Chicote appears on Pages 38, 39 and 10 of the said record.)

Mr. CHICOTE:

Q. Did you give the testimony which I have just read to you?

A. Yes.

Q. Why did you go to the house of Antonio Enriquez—what was your object?

A. Because I had to go there every day, and because my father and my mother were there every day, in connection with the old theatre, and they left me there.

Q. Your father and your mother were the persons who told
178 him everything that happened at the old theatre, were they?

A. Before his illness, my father would observe everything that happened at the old theatre and tell Antonio Enriquez about it.

Q. How old were you at that time?

A. Eight or nine years old.

Q. Did you ever go to the house of Antonio Enriquez for the purpose of speaking to him in regard to the conduct of Francisco Enriquez in ejecting you from the old theatre?

A. No.

Q. Did not Antonio Enriquez ever criticise the acts of Francisco Enriquez?

A. No, because at that time he was very weak.

Q. Do you remember whether, during the time referred to by you, anybody talked with Antonio Enriquez?

A. No.

Q. Did you see anybody speak with him?

A. No.

Q. Did you see anybody visit Antonio Enriquez and speak to him?

A. They would speak to him, but he could not answer.

Q. Were you near the visitors?

A. Yes, sometimes I was near the bed, helping Don Antonio to drink his soup out of a cup.

Q. Do you remember the persons who used to visit Antonio Enriquez at that time?

A. Yes.

Q. Who were they?

A. Carmen Badolato.

Q. Who else?

A. I do not remember.

179 Q. Did many friends go there to visit him?

A. I only saw one or two.

Q. You say that you were constantly by the side of Antonio Enriquez?

A. Yes, sometimes, but not all the time.

Q. At what time would you usually be by the side of Antonio Enriquez or near to him?

A. At meal-time, because I was always there with my friend Concha, playing with her.

Q. You mean to say that you were there every day?

A. Yes, I would go there every day.

Q. What would you generally do when you went there?

A. Nothing.

Q. Did you not say "Good morning"?

A. Yes: I would say "Good day" or "Good afternoon", and when I would go there in the evening I would say "Good evening."

Q. Do you remember where you were born?

A. Not now, but I can get a certificate of baptism.

Mr. Montagne: I object to the question, because the witness was so young then that she could not remember.

Q. Have you got that certificate of baptism at your house?
A. Yes, it is in Binondo.
Q. Can you bring it this afternoon?
A. No, it is with the parish priest of Binondo. I can get it, though.
Q. What is your name?
A. Agueda Esteban, at your service.
Q. Have you not any other name besides Agueda Esteban?
A. No.
Q. Is not your name Agueda Esteban Barroga?
A. Yes.
180 Q. Do you remember your parents having told you that you were born in front of the old theatre?
A. Yes, because my father and my mother used to live at that place, and there is where my mother gave birth to me.
Q. Do you know who are your god-parents?
A. They are dead now.
Q. Do you know their names?
A. I think his name was Juan.
Q. Did you know him?
A. He was an Englishman.
Q. What is your father's name?
A. Ambrosio.
Q. What is your mother's name?
A. Francisco de la Cruz.
Q. Then your name is Agueda Esteban de la Cruz, is it not?
A. I only know that my name is Agueda Esteban—that is all I know.
Q. And where does the name Barroga come from?
A. That is my lover's name.
Q. Then your name is Agueda Esteban, is it not?
A. Yes, but my husband's name is Barroga, and I have that name too.

Mr. MONTAGNE: I object to the stenographer taking down the word "lover", because the witness did not say that her lover's name was Barroga, but that it was her husband's name.

(The stenographer remarks that he understood the witness to say "lover" and he so put it down.)

Mr. CHICOTE:

Q. Is "Barroga" your lover's or your husband's name?
A. My husband's name.
Q. Are you married?
181 A. No, sir.

(The stenographer remarked: "Then it *is* 'lover' and *not* 'husband'.")

Mr. CHICOTE:

Q. Your name is de la Cruz, is it not?
A. Yes.
Q. So that your name is Agueda Esteban de la Cruz, is it not?
A. Yes, and "Barroga" on my husband's side.

(Mr. Chicote asked the Court to strike from the record all that part of the previous testimony given by the witness in Case No. 21.)

The COURT: Mr. Chicote can read the questions, and the witness can explain them.

Mr. CHICOTE:

Q. Do you remember whether you ever appeared in the court of first instance of Binondo as a witness in a criminal case against Francisco Enriquez?

A. Yes—and I remember that you were the lawyer that asked me the questions.

Q. Do you remember having stated at that time that Francisco Enriquez ejected you from the old theatre, after Don Antonio Enriquez left for Spain?

A. Yes. When the old man was no longer there Don Francisco ejected us,—when he left for Spain; and when he was sick I went there with my father and my mother to beseech him to let us continue in the house, because we did not want to go; but he was so sick he could not speak.

Q. Do you remember whether the judge told you at that time that your answer was not responsive to the question, and that he asked you whether you appealed to Antonio Enriquez from the decision of Francisco Enriquez, and that you said "Yes, Sir, I went
182 to him, but he could not answer, because he was unable to speak"?

A. Yes, I testified in Spanish. Sometimes I am unable to understand those arithmetical politics,—because that is nothing more than arithmetical politics.

Q. Do you remember having testified at that time as follows: "Yes, sir, I approached him, but he could not answer, because he was unable to speak."?

A. My mother wished to speak to him. She wanted to beseech Antonio Enriquez, but the latter was unable to speak.

Q. Then it was your mother who spoke, and not you?

A. No, my mother did, but I accompanied my mother.

Q. You were then asked whether Francisco Enriquez ejected you from the old theatre before or after the death of his father.

Mr. MONTAGNE: I object to the question, it not being a proper cross-examination and no foundation having been laid for its answer.

The COURT: The witness may answer.

Mr. MONTAGNE: Exception.

Mr. CHICOTE:

Q. Do you remember whether the Prosecuting Attorney asked you that question?

A. When Don Francisco Enriquez was here I wanted to plead with him, but Don Antonio was unable to speak; and that is what I told Judge Memije; and as I have always told the truth that is what I then told the judge. I do not remember now, because those are matters of arithmetical politics.

Q. Did you not testify at that time that you were twenty-
183 nine years of age?

A. I do not remember when I was born. You yourself asked me the question. The judge asked me whether I was twenty-nine or twenty-seven years old, but I do not remember what I told him then—so many years have elapsed. I do not remember. I am twenty-seven or twenty-eight years of age.

Q. Do you not remember having testified then that you had called on Antonio Enriquez on the Escolta?

Mr. MONTAGNE: I object to the question, not being proper cross-examination.

The COURT: She must answer.

A. Yes, I did testify to that effect.

Q. Do you remember having been asked then on what date you spoke to Don Antonio Enriquez, and that you answered, "In the year 1882"?

Mr. MONTAGNE: I object to the question, for the same reason.

(The objection was overruled.)

Mr. MONTAGNE: Exception.

A. Yes.

Mr. CHICOTE:

Q. Do you remember my having asked you in what year you were ejected by Antonio Enriquez, and that you answered, "In the year 1882; I do not remember the month: if I told you the month I would tell you a lie. I always tell the truth." Did you not say that?

Mr. MONTAGNE: I object to the question, on the ground that it is not proper cross-examination and is incompetent.

184 The COURT: The witness must answer.

Mr. MONTAGNE: Exception.

A. I do not remember if I said that, or not.

Q. I then asked you in what house you used to play with the daughter of Antonio Enriquez, and you answered "On Calle David", —did you not say that?

A. I do not remember.

Q. I also asked you then, "Did you play in the same room where the patient was?" and you answered, "In the hallway": did you not say that?

A. I do not remember.

185 *Testimony of Rufina Bernaldo.*

Having been duly sworn according to law, testified that her name was Rufina Barnaldo, residing on Calle Dulumbayan.

Questions by Mr. MONTAGNE:

Q. How old are you?

A. I am 50 years of age.

Q. How long have you lived in Manila?
A. I have been here a long time; since 1863, when that big earthquake destroyed the town of San Pedro.
Q. Did you live in Manila in the year 1882 and subsequent years?
A. Yes, since I came to Manila I have never left the city.
Q. Did you know Antonio Enriquez y Sequera?
A. Yes, because my husband was his coachman.
Q. Did you know Antonio Enriquez before he went to Spain?
A. I knew him when he was sick on Calle David.
Q. Did you know him at the time he was taken ill?
A. Yes.
Q. Did you use to go to the house of Antonio Enriquez on Calle David, where you say he was taken ill?
A. Yes, on Calle David.
Q. Do you know why Antonio Enriquez went to Spain?
A. I don't remember because I was taken sick myself and was unable to go to his house because he was on the Escolta.
Q. Do you know where Antonio Enriquez lived at the time he went to Spain?
A. Yes, he was living on the Escolta.
Q. Was that house on the Escolta the one that is now occupied by the English Drug Store?
A. Yes.
Q. Do you know about when Antonio Enriquez was taken ill on Calle David?
A. I don't remember either the month or the day; it was
186 a few days thereafter that he was taken to the Escolta.
Q. A few days after what?
A. I mean to say that a few days after he was taken sick on Calle David he was removed to the Escolta.
Q. Did you go to see Antonio Enriquez during his illness on Calle David.
A. Yes, I did.
Q. Did you visit Antonio Enriquez while he was sick on the Escolta?
A. I did.
Q. How often did you go to the house of Antonio Enriquez?
A. I cannot state exactly how many times, sometimes I would go every day and sometimes every other day.
Q. After Antonio Enriquez was removed from where he lived to the Escolta, do you know whether he lived in any other house until he went to Spain?
A. No, he did not leave the Escolta.
Q. After he was removed from Calle David, was he taken back to Calle David?
A. No.
Q. Do you know whether he was taken back or not?
A. He was not taken back to Calle David, he remained on the Escolta.
Q. And he stayed there until he went to Spain?

A. When he went to Spain I did not go to the house because I was sick myself.

Q. After Antonio Enriquez was taken ill and the times you called on him on Calle David and on the Escolta, did you see him?

A. Yes.

Q. During the visits to Antonio Enriquez when he was ill, did you ever speak to him?

187 A. I used to say good morning to him but he never answered.

Q. Did you ever see Antonio Enriquez, during the visits to both houses and during his illness, talk with anyone?

A. He could not speak.

Q. Did you during your visits ever see Antonio Enriquez during his illness, in either house, walking alone?

A. He could not walk, he could not move from his bed.

Q. Do you know whether Antonio Enriquez could move from his bed without assistance?

A. He could not get up alone.

Q. Did you ever see Antonio Enriquez move alone during his illness during any of your visits on Calle David? And the Escolta?

A. He could not get up alone.

Q. Did you ever see Antonio Enriquez get up?

A. No.

Q. During any of your visits to Antonio Enriquez and during his illness did you ever hear him speak with his own mouth?

A. I never heard him speak.

Q. When you spoke to Antonio Enriquez during his illness, did he answer you?

A. No.

Q. Do you know how Antonio Enriquez ate his meals?

A. The girls fed him with a spoon.

Q. Did you ever see Antonio Enriquez eat with his own hands?

A. No.

Q. During any of your visits to Antonio Enriquez and during his illness, whether or Calle David or on the Escolta, did you ever see any person or persons approach him for the purpose of reading, writing or signing documents?

A. No.

188 Q. Did you, during your visits to Antonio Enriquez, either on Calle David or on the Escolta, ever see the wife of Francisco Enriquez, Carmen Cavada?

A. She did not go there. I never saw her there.

Q. Do you know Carmen Cavada, the wife of Francisco Enriquez?

A. Yes.

Q. Do you know the reason why Carmen never visited the house of Antonio Enriquez?

A. I simply heard the Spaniards say that she never went there.

Q. That's all.

Questions by Mr. CHICOTE:

Q. When did your husband enter the service of Antonio Enriquez as a driver?
A. When I married him he was already his driver.
Q. When were you married to him?
A. I cannot state the year or date.
Q. Was it at the time of the earthquake of 1880? Were you married then?
A. When the churches fell down I was too young.
Q. Have you any recollection of the earthquakes which preceded the cholera and the typhoon?
A. I don't remember the year.
Q. Were you here in 1882 and 1883?
A. I have been here since the Cathedral and the church of the Jesuit Fathers fell down.
Q. Where were you married?
A. We were married in Binondo.
Q. When.
A. I do not know.
Q. Who was the commanding general at the time?
189 A. I do not remember who was the commanding general at that time?
Q. Who was the parish priest of the district at the time you were married?
A. One who has been a bishop.
Q. Was he Father Hevia?
A. I do not remember the name of the priest but the name of the fiscal was Angel.
Q. At the time of the big cholera here in Manila were you already married?

Mr. MONTAGNE: I object to the question as immaterial and irrelevant and no foundation has been laid therefor.
The COURT: The question is proper. Let the witness answer.
Mr. MONTAGNE: Exception.

A. I don't think I was married then, I don't remember the time of the cholera epidemic, I don't know whether I was married.
Q. Were you married when the big typhoon struck the city of Manila?

Mr. MONTAGNE: I object to the question because there is no law which says when the typhoon occur-ed.
Mr. Chicote then said that whoever had read the papers or some history of the city of Manila knew that there was a big cholera epidemic and a big typhoon in Manila during that year and that his idea was to refresh the mind of the witness, that she might fix the date of the marriage.
The COURT: The witness must answer.
Mr. MONTAGNE: Exception.

A. We were not married yet.

Q. Can the witness state how long after that cholera and typhoon she was married?

190 A. I do not remember.

Q. Was it long or soon after that?

A. Long after.

Q. Did you know Antonio Enriquez before you married his driver?

A. Yes.

Q. Did you visit the house of Antonio Enriquez before you were married to the driver?

A. My uncle used to work for him and my aunt's husband lived on the theatre street.

Q. State whether or not you used to visit Antonio Enriquez before you were married to the driver.

A. Yes.

Q. In what house did you visit him?

A. On Calle David.

Q. For what purpose did you visit him, sometimes every day and sometimes every other day?

A. I visited him to know whether he was ill or well.

Q. What did you do during your visit, how did you make your visit to him?

A. Nothing. I simply went there to visit him.

Q. How long did you remain near Antonio Enriquez during your visits?

A. I went near him and after speaking to the girls and saluting him I went away.

Q. During your visits to the house of Antonio Enriquez did you ever see any stranger by his side?

A. I never saw any.

Q. Did you ever see any person speak to Don Antonio, and the latter stammer in reply, like bla, bla, glo, glo, lra?

A. I have not seen anything. He could not speak either.

191 Q. Can you tell me how long before Antonio Enriquez went to Spain you were taken sick?

A. A few days after he moved to the Escolta, I was taken sick and was unable to go to see him.

Q. When Antonio Enriquez went to Spain did you go to say good-bye to him or were you still sick?

A. I was still sick.

Q. How long after Antonio Enriquez was taken sick was he removed from Calle David to the Escolta?

A. I cannot say how many days. I can only say that when I was taken sick Antonio Enriquez had already gone.

Q. When you visited the house of Antonio Enriquez did you go near him or did you simply stay with your husband?

A. I used to wait on the girls.

Q. But did you ever go near Antonio Enriquez?

A. Yes.

Q. At what time did you use to go near Antonio Enriquez while waiting on the girls?

A. About 4 o'clock in the afternoon.
Q. Did you ever see Francisco Enriques at the house of Antonio Enriquez?
A. He used to go there.
Q. What was the food that was fed to Antonio Enriquez with a spoon?
A. The girls used to give him broth.
Q. Didn't you ever see them give him anything else?
A. All that I saw the girls give him was broth.
Q. Were you ever present in the house of Antonio Enriquez at supper time?
192 A. I did not go there in the evening.

Q. That's all.

Mr. MONTAGNE:

Q. Did you ever visit Antonio Enriquez in the forenoon?
A. No.
Q. Did you ever stay overnight in the house of Antonio Enriquez?
A. I never stayed there overnight.

Q. That's all.

193 *Testimony of Tomas Rodriguez.*

Having been duly sworn according to law, testified that his names was Tomas Rodriquez, residing at 246 Calle Magallanes, and a lawyer by profession.

Questions by Mr. MONTAGNE:

Q. How long have you lived in Manila?
A. Since I was born.
Q. What is your occupation?
A. Lawyer.
Q. Were you in Manila in the years, 1880, 1882 and 1883?
A. Yes.
Q. Have you ever heard anything about the circumstances of the illness of Antonio Enriquez and his subsequent departure for Spain?
A. Yes, I have.
Q. Do you remember the time?
A. No, I do not.
Q. Did you know Miguel Torres, formerly a Notary Public of Manila?
A. Yes, he was an intimate friend of mine, and a schoolmate.
Q. Do you know whether he is dead or alive?
A. He died many years ago.
Q. Did you — Federico Zoboli?
A. Yes, he was also a friend of mine.
Q. Were you acquainted with Miguel Torres, formerly a notary public of this city?
A. Yes.

Q. Do you know whether Federico Zoboli is now in the Philippines?

A. No, he is — Spain.

194 Q. Has he been absent very long?

A. Yes, but I cannot state how long. He has been absent for a long time, but his family is here.

Q. Do you know whether there was any relations between Miguel Torres and Mr. Zoboli in the former's lifetime?

A. Yes, they were friends.

Q. Where did Mr. Zoboli work at the time?

A. There was a time when, I am not sure, he worked for Miguel Torres. Mr. Torres was a lawyer and a Notary Public and Mr. Zoboli was then a clerk in his office. I cannot state the time exactly. This was many years ago.

Q. Do you know whether Feberico Zoboli was at that time a clerk in the office of the Notary, Miguel Torres?

A. Yes, he was there, he was a clerk and worked in the office as an assistant.

Q. Can you state approximately the date when Federico Zoboli worked as a clerk in the office of the Notary, Miguel Torres?

A. I cannot state the date exactly for this happened some twenty or thirty years ago.

Q. Do you know ehether Mr. Zoboli worked as a clerk for Miguel Torres at the time Antonio Enriquez left for Spain?

A. I think that at the time Antonio Enriquez was taken ill, Mr. Zoboli worked in the office of the Notary, Mr. Torres.

Q. That's all.

Questions by Mr. CHICOTE:

Q. Did you know Mr. Zoboli when Antonio Enriquez was living and whether Mr. Zoboli then practiced law?

195 A. I knew him as a lawyer but I cannot say whether he practiced law at that time. He was older than I in the profession but I can not say whether he was practicing then.

Q. Were you an intimate friend of this man, Mr. Zoboli?

A. Yes, we were intimate friends, as he was a clerk in the office of Mr. Torres.

Q. Did you ever see him working in the Notary's office?

A. I saw him working there many a time because he was an intimate friend of Mr. Torres, now deceased, and a man in his confidence.

Q. Did you ever go to the office of Mr. Torres for the purpose of executing some document?

A. For the purpose of executing instruments, no, but for the purpose of interviewing him on matters connected with the profession, yes. I never went there for the purpose of executing any instruments.

Q. Did you advise any person to go there for the purpose of executing some instrument?

A. I don't remember. It may be that I have, for we were very good friends but I cannot say positively.

Q. Were Mr. Zoboli and Mr. Torres looked down upon or did they have a good reputation with reference to their morality?

A. Mr. MONTAGNE: I object to the question as irrelevant and immaterial, having no foundation in this case. The moral conduct of these men is not here at issue.

The COURT: I cannot allow the question.

Mr. CHICOTE: That's all.

196 *Testimony of Bonifacio Briones.*

Having been duly sworn, testified that his name was Bonifacio Briones, residing at No. 219 Calle Soler, Manila, 58 years of age.

Questions by Mr. MONTAGNE:

Q. How long have you, lived in Manila?

A. Since I was born.

Q. What is your occupation now?

A. I used to be a clerk of court, having resigned in July last year.

Q. Were you in Manila in the years 1880 and 1881?

A. In 1881 I went to the Island of Negros and came back to Manila July 1, 1882.

Q. What was your occupation in Manila during the years 1882, 1883 and 1884?

A. I used to attend the court.

Q. You mean as a clerk?

A. No, I was simply in charge. I became a clerk of Court in 1887.

Q. Do you know Francisco Enriquez?

A. I used to be with him when he was Judge of the Court of First Instance.

Q. You mean you were a judge?

A. No, Francisco Enriquez was a judge.

Q. Judge of the Court of First Instance?

A. Yes, sir, judge of the Court of First Instance for the District of Quiapo.

Q. Did you know about that time a man by the name of Miguel Torres?

A. Yes sir, he was my schoolmate.

197 Q. Do*d* you know whether he is living or dead?

A. I think that he died in 1887 or 1888.

Q. Do you know whether he was a Notary Public at that time?

A. Yes sir, and a lawyer.

Q. Did you know a man by the name of Federico Zoboli about that time?

A. Yes sir, we were schoolmates.

Q. Did he have his office or his desk in the office of Mr. Torres?

A. I went to see him once in his office on Calle San Vicente and they told me to go to the office of the Notary, Mr. Torres, in the house now occupied by Mr. Herevia, where I saw him three or four times.

Q. Did you see him there often working?

A. Yes, I saw him writing.
Q. How many times?
A. Three or four times.

Mr. MONTAGNE: That's all.
The COURT: Session adjourned until three o'clock this afternoon.

I certify to the correctness of the transcription of the above testimony.

(Sgd.) JULIO GIMENEZ JEREZ,
Stenographer.

198 JUNE 3, 1902.

Testimony of Arcadio Arellano.

Having been first duly sworn in accordance with law, testified that his name was Arcadio Arellano, thirty years of age.

Questions by Mr. MONTAGNE:

Q. How long have you been in Manila?
A. Thirty years.
Q. Do you know the premises on the corner of Calle Numancia and Urbiztondo?
A. Yes.
Q. What is your profession?
A. Architect.
Q. How long have you practiced your profession?
A. Since 1895.
Q. Here in Manila?
A. Yes.
Q. Have your practiced your profession sufficiently to give your opinion as to the value of property in the city of Manila?
A. Yes, not only by reason of my profession but because I have been tec-nical chief of the department of assessments.
Q. Can you tell us in your opinion what is the monthly rentum value of the property in question since 1898?
A. The rental value can be fixed with reference to the rent.
Q. What has been the average rent on the property since 1898?
A. From one hundred to one hundred and thirty pesos.
Q. You mean monthly?
A. Yes.
Q. According to your judgment and opinion what was the average monthly rent of that property from 1890 to 1898?
A. From seventy-five to one hundred pesos.
Q. To the best of your knowledge what was the rent on that property from 1884 to 1890?
199 A. From fifty to seventy-five pesos.

Mr. MONTAGNE: That's all.

Mr. Chicote did not cross examine the witness.
The COURT: Next witness.

200 *Testimony of Jose Guevara.*

Having been duly sworn in according with law, testified that his name was Jose Guevara, residing at No. 86 Calle Santa Rosa, 32 years of age.

Questions by Mr. MONTAGNE:

Q. How long have you lived in Manila?
A. Thirty-two years.
Q. What is your profession?
—. Architect.
Q. Do you practice your profession now?
A. Yes.
Q. Here in Manila?
A. Yes.
Q. Have you practived your profession sufficiently to give your opinion upon the value of property in the city of Manila?
A. Yes, upon the rent and value.
Q. Do you know the property numbered 76-84, on the corner of Calles Numancia and Urbiztondo in the city of Manila?
A. Yes.
Q. To the best of your knowledge what was the monthly rental value of that property from 1896 to date.
A. From eighty to one hundred pesos.
Q. To the best of your knowledge, what was the rental value of that property from 1890 to 1898?
A. From one hundred to one hundred and forty pesos.
Q. Referring to my first question, from 1898 to date, in four years, what was the rental value of that property?
A. In one year it would be fifty, seventy-five or eighty pesos.
Q. Do you mean to say that the rental value of this property was greater some months ago?
A. No, but that it rents less.
Q. Was the rent higher then than now?
A. It rents less.
201 Q. How is it that to-day it rents for seventy-five and formerly it rented for one hundred?
A. You have misunderstood me.
Q. To the best of your knowledge and opinion, what was the rental value of that property from 1898 to date?
A. From one hundred to one hundred and forty pesos.
Q. To the best of your knowledge and opinion, what was the rental value of that property from 1890 to 1898?
A. From seventy-five to eighty pesos.
Q. To the best of your knowledge and experience, what was the average monthly rental value of that property from 1884 to 1890?
A. From fifty to seventy-five pesos.

Mr. MONTAGNE: That's all.

Questions by Mr. CHICOTE:

Q. The average rental value of that property estimated by you is based upon the supposition that the property at that time was in the same condition in which it is now, is it not?

A. That is considering the location and supposing that the property was in good condition.

Q. Can you give your opinion as to what was the value of that property in 1884.

A. Seven or eight thousand pesos.

Q. Can you state what the present value of the property is?

A. The value has doubled. It must be from fourteen to sixteen thousand pesos.

Mr. CHICOTE: That's all.

202 *Testimony of Antonio Enriquez.*

Having been duly sworn according to law, testified that his name was Antonio Enriquez y Villanueva.

Questions by Mr. MONTAGNE:

Q. Are you one of the sons of Antonio Enriquez y Sequera?

A. Yes sir.

Q. Are you one of the plaintiffs in this suit?

A. Yes.

Q. Do you know Francisco Enriquez?

A. Yes.

Q. Where did you live in the years, 1882, 1883 and 1884?

A. With my father.

Q. In the year 1882 and during part of 1883, did you live in Manila?

A. Yes.

Q. Please state your age.

A. 38 years.

Q. Do you remember the circumstances of the last illness of your father in Manila?

A. Yes.

Q. Where were you living at that time?

—. With my father.

Q. In what house?

—. In the house on Calle David.

Q. Do you remember when your father was taken ill?

A. Yes.

Q. Were you then living with your father?

A. Yes.

Q. How old were you at that time?

A. 17 or 18 years of age.

Q. Were you at the time your father was first taken ill employed in any place in Manila?

A. Yes, with the firm of Martin Bais.

Q. Can you state approximately the date on which your father was taken ill?

A. In the year 1882, about the month of October, and while living on Calle David.

203 Q. How long did you remain in the house on Calle David after your father was taken ill.

A. A very short time, about a month.

Q. It was at the expiration of that month that you say that your father removed to another place?

A. Yes, he was removed to the house on the Escolta where he remained until he went to Spain.

Q. You mean the building now occupied by the English Drug Store?

A. Yes.

Q. Did you remain on the Escolta until his departure for Spain?

A. Yes sir.

Q. Do you remember when you left for Spain?

A. Yes.

Q. Did you go to Spain with him?

A. Yes, during his illness I attended to him.

Q. Who else went to Spain with your father?

A. My sisters Carmen, Gertrudes, Trinidad, Concha and myself.

Q. Did your brother Francisco accompany your father?

A. No.

Q. Do you remember approximately the date on which your father left for Spain?

A. On the first of April, 1883, arriving in Spain on the 9th of May, 1883, 39 days on the voyage.

Q. When your father was first taken ill on Calle David, did you continue to work for Martin Dais?

A. Yes, when we moved to the Escolta I had to resign because I could not go to the office and look after my father at the same time. After attending to my father day and night I could not also go to the office and for this reason I had to resign my position, and further because we had decided to go to Spain.

Q. While your father was on the Escolta, did you see him constantly?

204 A. I was constantly with him. I saw him constantly. I was the one who took care of him.

Q. During the time he was in Calle David and before he was removed to the Escolta, did your father at any time speak to you?

A. He could not speak to me because he could not answer my questions. It was impossible for him to do so. He was entirely deprived of his speech. He was just like a statue. We had to guess at what he wanted by looking at him. As he was unable to speak we had to make very strenuous efforts to understand and guess what he wanted.

Q. While your father lived on Calle David, as well as on the Escolta, and during his illness, did you ever see him walking alone.

A. No.

Q. Do you know whether your father was unable to get out of bed?

A. He was unable to get out of bed alone. We had to help him, even more we had to be by his side constantly every day. We had to give him a physic every day because he was not out of danger

and every day we had to give him a physic of some mineral water so that on the Escolta, as well as on Calle David, he being unable to use one half of his body, we had to take special care of him. If we did not take good care of him after the physic he was apt to have a congestion.

Q. It was after this that he was removed from Calle David to the Escolta, was it?

A. Yes.

Q. Were you present when he was removed?

A. Yes.

Q. Do you know how he was removed to the Escolta?

A. He had to be carried in arms.

Q. Did he go alone?

A. No.

Q. Do you know Pascual Reyes?

205 A. Yes, he was our servant and is still with us.

Q. Did you see your father every day while on the Escolta until he left for Spain?

A. Yes, with the exception of the time I was in the office.

Q. How long before your father left for Spain did you resign your position?

A. Two months before.

Q. Then you were with your father constantly for two months before he left for Spain?

A. I was the only man in the house who could take care of him, because although my brother Cayetano was there, he being an army officer could not be with him all the time.

Q. Is he one of the plaintiffs in this action?

A. Yes.

Q. While you were on the Escolta, can you state whether you were constantly with your father?

A. Yes.

Q. Were you there every night?

A. Yes, I was with him every night and I was constantly by his side, holding his arm and at the least movement I would wake up and had to be on the lookout because he could not help himself, call anybody or do anything at all.

Q. Did you do that every night?

A. Yes.

Q. While your father was on the Escolta and until his departure for Spain did you ever see him move alone?

A. No.

Q. Do you know whether he could move out of bed unassisted?

A. Yes.

Q. Did you have to help him to sit up in bed?

A. He could not move alone. As he was on the edge of the bed, if he wanted anything I had to get hold of him and move him around as one who carries a heavy weight and then guess at what he wanted. He was absolutely helpless and could not move unless he was assisted by some one.

Q. While your father was on the Escolta did you ever hear him speak?

206 A. No.

Q. Can you state to the court the manner in which he attempted to speak?

A. When he wanted to speak he was unable to do so. He stammered like this "un di i ion". Sometimes he called me by signs and I had to guess what he wanted.

Q. Do you know whether he could move his right hand?

A. No, he could move his left arm and leg but was very weak.

Q. Were you with your father when he died?

A. No.

Q. Where did he die?

A. In Madrid.

Q. Can you state the date on which your father died?

A. I think it was in 1884 or 1885, I rather think it was in 1884.

Q. That is, the year after he left Manila?

A. Yes.

Q. During the time you and your father lived on the Escolta and on Calle David, during his illness, at any time of the day or night, did you see any person or persons read, dictate to him or ask him to sign any document?

A. No.

Q. Do you know Carmen de la Cavada de Enriquez?

A. Yes.

Q. Do you remember whether during your father's illness, either on Calle David or on the Escolta, during your permanence here in Manila, Carmen de la *Carmen de la* Cavada went to your father's house?

A. No.

Q. Do you know a man by the name of Miguel Torres?

A. No.

Q. Did you know a man by the name of Zoboli?

A. Neither.

Q. From the time your father was removed from Calle David to the Escolta and until the time of his departure for Spain, do you remember whether he was removed to any house other than that on the Escolta?

A. No.

207 Q. Did he always live on the Escolta?

A. Yes, until he left for Spain.

Q. Did he ever go out of the house on the Escolta?

A. I don't remember, no sir.

Mr. MONTAGNE: That's all.

It is admitted by both attorneys Chicote and Montagne that the house on the Escolta belonged to Antonio Enriquez formerly and now belongs to his estate.

Questions by Mr. CHICOTE:

Mr. CHICOTE: To contradict the veracity of the witness, I am go-

ing to read to him part of the testimony given by him on the 25th of April, 1901.

Mr. MONTAGNE: I object to the reading of that testimony as improper and unnecessary. To impeach the veracity of the witness counsel for plaintiff- can cross examine him but he can not base his attack upon the veracity of the witness upon testimony formerly given by him. I therefore object to the reading of the said testimony.

The COURT: Mr. Chicote has a right to read the testimony formerly given by the witness and then ask him whether that testimony is true and the witness also has a right to explain his previous statement.

Mr. Chicote then read the testimony given by the witness in case No. 21 instituted against Francisco Enriquez in the Court of First Instance of the District of Binondo for making a false statement in a public instrument, appearing on pages 17 to 23 of the record of the said case.

Mr. CHICOTE to the witness:

Q. Do you remember having given the testimony I have just read to you?

A. Yes.

208 Q. Explain all that I have read to you.

A. The explanation of this testimony is that when I testified in that case I was unable to state specifically the time I did not go to the office. I was unable to say specifically since when I had not gone to the office.

Q. You also testified that you were employed with Mr. Martin Dias, and that you worked from eight o'clock in the morning until twelve at noon and from one or two in the afternoon until five in the evening.

A. Undoubtedly I did not see anybody in the house while I was there, because I was in the office.

Q. Did you look after your father all the time while he was on Calle David?

A. With the exception of the time that I spent in the office, yes.

Q. Who used to look after him?

A. The whole family, who were there and lived with him.

Q. Did any stranger visit your father's house during his illness?

A. I do not remember having seen anybody.

Q. Do you remember having seen at your father's house your uncle, Manuel Enriquez?

A. I do not remember, but it is probable that he went there.

Q. Do you remember having seen Luis Quintos at the house on Calle David?

A. Yes.

Q. Do you remember whether during your father's stay on the Escolta he was visited by persons outside of the family?

A. If any strangers visited him I do not remember who they were.

209 Q. Do you remember whether he was ever visited by Mrs. Carmen Gonzales de Azola?

A. Yes, I do.

Q. Do you remember whether Luis Quintos ever went to the house?

A. I do remember, but I think it was while my father lived on Calle David, but not on the Escolta.

Q. Do you remember whether, at any time, and during your father's illness, Luis Quintos had any conversation with him?

A. I do not remember, but it is very probable that he did have such conversation with my father.

Q. Could your father speak Tagalog?

A. No.

Q. The servant that you then had, Pascual Reyes, could he speak Spanish?

A. He understood Spanish.

Q. Could he speak Spanish?

A. I cannot tell you; he spoke Tagalog; I remember that Pascual Reyes was an assistant.

Q. Assistant cook?

A. He was everything; he was assistant cook, servant, and, finally, waited on my father.

Q. Is that the servant who constantly waited on your father and who turned him over and sat him up in bed? Was he the confidential servant who took care of the patient?

A. We had him for that purpose—to take care of my father.

Q. And was he the one who took care of him?

A. He was one of those who took care of him.

Q. In addition to the servants, did anybody else take care of him?

A. Yes, the whole family; my brothers, and all the servants.

210 Q. Do you remember any other person of the household who looked after your father?

A. We all looked after him, and all the servants did, too.

Q. Do you remember who was your father's cook at that time?

A. I do not.

Q. Do you remember the name of any other servant employed by you for the same purpose?

A. We had so many that I can not remember them.

Q. Do you not remember the name of any other servant?

A. No.

Q. You only remember Pascual, do you not?

A. He was one of the servants.

Q. Was he used about the kitchen?

A. Yes, but later used to look after my father, and was always about the room in case anything was needed.

Q. No strangers then looked after your father?

A. Nobody, outside of the family, constantly looked after my father.

Q. Were they strangers, or were they members of the family?

A. They were all members of the family.
Q. Did any strangers go there frequently?
A. Some of my father's friends occasionally came to see him.
Q. Do you remember who they were?
A. There were so many interested in the health of my father that I just simply appreciated their visit, and that is all.
211 Q. Do you remember the persons who went to see your father off when he went to Spain, and were they all members of the family?
A. Many members of the family went to see him off, but I do not remember who they were, because I was constantly looking after my father.
Q. Did any person outside of the family go to see him off?
A. I remember that there were many members of the family and persons outside of the family who went to see him, but I do not remember who they were.
Q. Did you say that you accompanied your father on his trip to Spain?
A. Yes.
Q. Before undertaking the voyage, and while your father was ill, did he not improve at all—was he always in the same condition?
A. The doctors said that he was improving. The doctors sometimes said that the paralysis was improving, but according to my opinion he was always the same, notwithstanding that the doctors always claimed that he was out of danger but that nevertheless he might have cerebral congestion. During the trip I continuously gave him mineral water to drink.
Q. Please state whether or not there was any improvement?
A. An almost insignificant improvement.
Q. Do you think that he had lost all his sensitiveness?
A. He had no sensitiveness on the whole of the right side.
Q. Do you think that he had lost all his intelligence and memory?
212 A. All that I can say was that he was unable to speak and could not say even a word. Sometimes he would express by signs what he wanted but he could not make any movement at all, and we had to guess what he desired.
Q. Was he in that same condition from the beginning of his illness to the time of his departure for Spain?
A. No, because at the beginning of his illness he could not make any movement and could not speak even a word. He could not even recognize people, and all that he could do was to stammer.
Q. Could he understand what was said to him?
A. I am unable to say.
Q. Did you gather from his signs and motions that he understood what was said to him?

Mr. MONTAGNE: I object to the question, because the witness is not a doctor, and further because it calls for the opinion of the witness.

The COURT: The witness can state whether he understood the signs, but can not give his own opinion.

Q. When you spoke to your father, did he understand what you said to him?

A. I did not speak to my father, but through the eyes I attempted to guess what was wanted. Sometimes I would go near him and he would attempt to speak, but was unable to do so. Whether there was any improvement in his illness, only a doctor could tell. To my mind his condition was always the same until the time that he went to Spain. He was in such a condition that we expected every minute that he would be overtaken by a shock.

213 Q. By the movement of his eyes and his hand you were able to understand what he wanted to say, were you not?

A. I had to make an effort to understand what he meant.

Q. But you did understand some of the things that he said to you?

A. Yes, but I do not know that it was not by accident.

Q. Did you notice whether he could remember those things that interested him the most?

A. I was constantly with him, and sometimes when — asked for something I gave him one thing and then another, until I finally found what he wanted and then gave it to him.

Q. Do you think that he could remember things?

A. Sometimes he did, at other times he did not.

Q. But sometimes he made himself understood, did he not?

A. Yes, that is to say, upon a call of nature we probably understood what he wanted, but sometimes we had to show him this and that until we finally got what he wanted.

Q. Did you speak to your father?

A. Yes, I did.

Q. Did you speak with him?

A. I used to ask him by signs whether he wanted to urinate or what.

Q. You did not speak to him then, but you simply made signs to him?

A. I made signs to him, and asked him whether he wanted this or that.

Q. Why did you speak to him then if you knew that he could not understand you?

214 A. I spoke to him, but could not keep up a conversation with him. However, it was evident that he understood what was said, because sometimes he would refuse to talk if he had nothing to say.

Q. Do you remember having ever seen Carmen Gonzales, either on Calle David or on the Escolta?

A. Yes.

Q. Did she see your father when she went there?

A. I can not say, because I simply saw the visitors and never talked to them.

Q. You mean to say that you can not state the names of the strangers who went to see your father?

A. I never paid attention to visitors.

Q. Then you are not able to describe any of the strangers who

visited the family and can not say whether they talked to your father or not?

A. I do not remember. No, sir.

Q. Do you mean to say that when your father wanted anything upon a call of nature, you could give him what he wanted?

A. (No answer.)

Q. Was your father's condition the same during the whole trip?

A. Yes.

Q. And during his stay in Spain?

A. During his stay in Spain I do not know why I was separated from him.

Q. How long were you with him in Spain?

A. About a year.

215 Q. Were you constantly with him?

A. Constantly with him.

Q. And during that year his condition was the same as in Manila, was it not?

A. Yes, sir.

Q. How was your father removed to the house on the Escolta?

A. By two servants, who took him in a chair to the carriage and then to the Escolta, where he was again taken in arms and carried upstairs.

Q. Who was in the carriage with him?

A. I do not know.

Q. Did you go with him?

A. No, my brothers went with him.

Q. Do you know whether at any time and during your father's illness he ever went out driving on the Luneta?

A. I do not remember.

Q. Do you remember whether your sisters used to go out driving with your father?

A. My brothers went out.

Q. With your father?

A. With my father, I do not remember.

Q. How did your father get into the house on the Escolta?

A. He did not get in: He was taken in.

Q. Who took him upstairs?

A. The servants, who carried him in a chair.

Q. Were you present at that time?

A. I was not present, for I remained on Calle David; but I arrived there a few months later.

216 Q. Then you did not see what happened?

A. I know it, because my brothers told me.

Q. Was there any reason for your father's being removed from Calle David to the Escolta?

A. My brothers said that it would be better to take him to the Escolta, because the house on Calle David would have a bad impression on him when he recovered his normal condition; and they wanted to distract his attention from that house. That was the reason why he was taken to the Escolta.

Q. When your father was taken to the Escolta, did you already know that he was going to leave for Spain?

A. They were considering the matter of his going to Spain, because he being in such a condition, not improving at all, the only thing to do was to send him to Spain, where he might recover.

Q. Do you know that your mother died in the month of July, 1882, a few months before your father was taken ill?

A. Yes she died in that month, but this was several months before my father was taken ill.

Q. Do you not know that the reason for your father's removal to the Escolta was that he was occupying the same room in which your mother died on Calle David?

A. All that I can remember is that he was not in the same room where my mother died; he was in another room.

Q. Do you not think, or do you not remember, that the idea was to take him away from that house to prevent his constantly being reminded of that room?

217 A. We left the house when my father was very ill. It would not have been proper for us to let him continue there, considering his condition at that time.

Q. Then the idea was to remove him to the Escolta, was it not?

A. Yes; he was simply taken to the Escolta, because it was expected that my father would recover his normal condition, and that, in that case, the house where my mother had died would have a bad effect upon him.

Q. Is it true that when your father was able to speak, he spoke in such a manner that it was impossible to understand him?

A. While I was with him it was impossible to understand him.

Q. You did not even hear others refer to him as having spoken to him during your absence?

Mr. MONTAGNE: I object to the question, because it calls for any answer which is simply hearsay.

The COURT: The witness should not answer.

Q. Do you think that your father could have said these words, "I do not know anything about that," or words to that effect?

A. I do not think he would have been able to say that, because he could not speak.

Q. Do you think that a person could have talked to your father for about half an hour continuously?

218 A. A person could have talked to him for half an hour, for two hours, and for that matter he could have talked to him forever.

Q. Do you think that during that half hour that a person talked to your father about a family affair or some other matter—do you think he would have been able to answer?

A. I do not think that my father would have been able to answer, because he was unable to do so and it was impossible; that is all.

Q. Do you know who was your father's attending physician here in Manila?

A. The only physician that I remember was Doctor Candelas.

Q. Do you know whether your father was visited by any other doctor when he was taken sick?

A. Many more doctors may have been called, but my father's attending physician was Doctor Candelas.

Q. In Spain, who was your father's doctor there?

A. Doctor Robert.

Q. Do you remember whether they called in any other doctor in Spain?

A. No.

Q. During your stay in Spain, do you not remember whether friends from the Philippines called on you and spoke to you about local affairs?

A. Yes, a number of friends visited the family, but they spoke to my brothers and talked to them.

Q. Did they speak to your father?

219 A. No, because my father did not stay very long in the reception room. His condition did not permit of his entertaining visitors.

Q. Do you remember having seen in Spain any person from the Philippines talking to your father, whose conversation made a bad impression on him?

A. I have already stated that many people came to the house but I do not remember that they ever talked to my father.

Q. Was your father unable to speak?

A. He stammered.

Q. Could you understand him?

A. No.

Q. Was it impossible to understand him?

A. He stammered so much that it was impossible to understand what he said.

Q. Could he not articulate?

A. No.

Q. Do you know whether your father was ever in Paris?

A. Yes.

Q. Was it before or after you went away?

A. Before I went away.

Q. Did you go to Paris?

A. No.

Q. Do you remember how long he was in Paris?

A. I do not.

Q. Do you know whether Doctor Candelas, who attended your father, is now dead?

A. He died long ago.

Q. That is all.

The COURT: The hearing is adjourned until to-morrow at nine a. m.

220 I certify that the foregoing is a correct transcript of my notes.

(Signed) JULIO JIMENEZ JEREZ,
Official Stenographer.

221 JUNE 4, 1902.

Fifth Session.

Testimony of TRINIDAD ENRIQUEZ, who, having been duly sworn according to law, testified that her name was Trinidad Enriquez.

Questions by Mr. MONTAGNE:

Q. Are you one of the daughters of Antonio Enriquez y Sequera?
A. Yes, sir.
Q. Are you one of the plaintiffs in this action?
A. Yes.
Q. Can you state your age?
A. Thirty years.
Q. Were you in Manila during the years 1882 and 1883?
A. Yes.
Q. How old were you at that time?
A. Eleven or twelve years.
Q. Did you live with your father, in his life time, until he went to Spain?
A. All my life.
Q. Do you remember when the last illness of your father commenced.
A. Yes.
222 Q. Can you state the date on which he was first taken ill?
A. In the month of October; I do not remember the date; was nothing but a child.
Q. Of what year?
A. Of 1882.
Q. Where was your father living at that time?
A. On Calle David, number four.
Q. What members of the family lived there with you?
A. All my brothers and sisters lived there with him.
Q. Did your brother Francisco Enriquez live with you at that time?
A. No.
Q. Did your brother Rafael Enriquez live with you at that time?
A. No.
Q. Can you state which of your brothers are now in Manila?
A. Rafael, Antonio, Francisco, and myself.
Q. Where are the other children of Antonio Enriquez?
A. In Spain.
Q. During your father's illness and during his stay on Calle David, number four, did you see him every day?
A. Every day; I lived with him.
Q. Did you see him every night?
A. Yes.
Q. Can you state who took care of your father during his illness?
A. The servant Pascual, Antonio, Cayetano and myself. We took turns.
223 Q. Did you go to school when your father was sick?
A. No, when he was taken sick I stopped going to school.

Q. Did you go to school after your father was taken ill?
A. No.
Q. Can you state how long he remained on Calle David after he was taken ill?
A. One month.
Q. Was Don Antonio removed to some other place?
A. Yes.
Q. To what place?
A. To the Escolta? He was sad, because he realized his condition, and often shed tears; and the doctor recommended that he be taken out of that place.
Q. The house to which he was removed to the Escolta, is the one at present occupied by the English Drug Store?
A. Yes, but he was taken to the apartments in the back part of the building.
Q. Do you mean the premises occupied by Messrs. Watson & Company?
A. Yes.
Q. After he was removed to the Escolta, did he continue to live there until he went to Spain?
A. He took the launch on the Escolta itself for the boat.
Q. During your father's illness on Calle David, did you ever hear him speak?
A. No, he was unable to speak; he stammered.
Q. Did you speak to him?
A. He could hear, but he could not answer.
224 Q. Did you see any other person speak to him?
A. My brothers did.
Q. While he was on Calle David, did he speak with any person who talked to him?
A. He was unable to speak until the time of his death.
Q. During his stay on Calle David and during his illness, did you ever see your father get out of bed alone?
A. He could not get up alone. We had to dress him up and wash him; we fed him; he was completely powerless.
Q. Did you ever see him on Calle David and during his illness sit up alone in bed?
A. He could not sit up alone.
Q. You state that only a month after he was taken sick he was removed to the Escolta?
A. Yes.
Q. During your father's stay on the Escolta and during his illness, until the time of his departure for Spain, did you see him every day?
A. Yes, sir, every day, in the morning, afternoon and evening.
Q. And during your father's stay on the Escolta, did you go to school?
A. No; when he was taken sick, he told us to stop going to school.
Q. During your father's stay on the Escolta, and during his last illness, did you ever hear him speak?
A. No, because he stammered so badly that he could not make himself understood.

Q. During your father's stay on the Escolta, until the time of his departure for Spain, did you ever see him get out of bed alone?

225 A. He could not get out of bed, because his body was practically dead, and it was impossible for him to make any movement at all. We had to dress him, and unassisted he could not get up.

Q. During his stay on the Escolta and during his last illness, until the time that he left for Spain, did you ever see your father sit up in bed alone?

A. He could not sit up alone.

Q. Can you state whether your father, during his illness, and while he lived on the Escolta, ever went out, either in the day or at night to any other house?

A. He could not go out.

Q. Did he, or did he not go out?

A. He did not.

Q. During your father's illness, either on Calle David or on the Escolta and until the time of his departure for Spain, either in the day time or in the evening, did you see any person or persons there with your father, reading, writing, signing or reading any document to him?

A. No, nobody went there; nobody at all.

Q. Do you know a man by the name of Miguel Torres?

A. No, I do not know who he is.

Q. Do you know a man by the name of Zoboli?

A. Neither.

Q. Who took care of your father during his stay on the Escolta?

A. All of us, my sisters Tula and Carmen and myself, the servant Pascual, and my brothers Antonio and Cayetano.

226 Q. Were you there when your father was removed from Calle David to the Escolta?

A. Yes.

Q. How was he removed?

A. He was taken down in a chair and put into the carriage, and when they arrived at the Escolta he was taken out of the carriage, put in a chair and then taken upstairs—exactly the same way that he was taken when he was taken downstairs at the house on Calle David.

Q. Do you know Carmen de la Cavada de Enriquez?

A. Yes, I know her now: Formerly I did not.

Q. Did you ever see Carmen de la Cavada de Enriquez in the house on Calle David or on the Escolta during your father's stay there?

A. No.

Q. Was Carmen de la Cavada present when your father went to Spain?

A. No.

Q. Can you state whether Carmen de la Cavada ever went to that house?

A. I do not remember; I never saw her there.

Q. Were you with your father until the time of his death?
A. Yes.
Q. Where did he die?
A. In Madrid, 59 Alcala opposite the Retiero Park.
Q. In what year did your father die?
A. On the thirty-first of July, 1884, at four o'clock in the morning.

227 Q. Were you with him when he was in Paris?
A. At that time I separated from him, it was a question of two or three months that was all.
Q. Do you know why he went to Paris?
A. He went there to be cured and find out what the doctors had to say.

Q. That is all.

Questions by Mr. CHICOTE:

Q. Did you constantly attend to your father during his illness?
A. Yes, sir.
Q. Were you with him constantly, day and night?
A. Yes.
Q. Is it not true that you played with other children in the lower apartments of the house?
A. My sister Concha did play, because she was younger than I.
Q. Are you older than your sister Concha?
A. Yes.
Q. You having been constantly with your father, do you remember who, outside of the members of the family, went to visit him?
A. Many people went there, but nobody would go into the room unless he was a member of the family, because the doctor had given instructions that nobody should be allowed in the room.
Q. Then no stranger could speak to your father?
A. No.
Q. And nobody could talk to him?
A. Quintos did speak to him.

228 Q. And how many times did Mr. Quintos speak to him?
A. On the Escolta several times.
Q. How long do you think Mr. Quintos talked to your father on the various occasions to which you refer?
A. I do not remember: I was very young.
Q. Do you know what Mr. Quintos talked to your father about?
A. He went there on business matters, and for money, and in certain affairs concerning his wife.
Q. Did he speak to your father about that?
A. I do not know; because I was there, but when I saw them come I would go away. I only know that he went there on money matters, and I did not meddle with such things, because I was too much of a child.
Q. Do you remember having seen Carmen Gonzales at the house?
A. Yes.
Q. Where did you see her?
A. On Calle David.

Q. Do you remember having seen her on the Escolta?
A. I do not.
Q. Did Carmen Gonzales ever speak to your father?
A. Yes, because she was his friend and a distant relative of his; but he never answered.
Q. Is Carmen Gonzales a relative of yours?
A. Yes, on her husband's side.
Q. What relationship exists between you?
A. I think she was may father's cousin.
Q. How, and to what extent did your father stammer?
A. He was unable to speak.
229 Q. You mean absolutely?
A. He could only talk by signs, and whenever he wanted something he would make a sign by nodding his head, and we had to guess what he wished.
Q. Were you present when your father was taken from Calle David to the Escolta?
A. Yes, for I was living with him.
Q. Were you present when he was taken upstairs to the Escolta?
A. Yes.
Q. Were you there?
A. Yes, he was taken in a chair.
Q. Did you accompany your father all the way from Calle David to the Escolta?
A. We were all there.
Q. Did you all leave Calle David at the same time?
A. Yes, we all left together; some were ahead and the others followed.
Q. Was there any improvement in your father's illness, either on Calle David or on the Escolta?
A. Practically none; he could not sit up alone, could not eat alone and we had to feed him while he lay in bed.
Q. Then was his condition the same during the trip to Europe and during his stay in Spain, until the time of his death?
A. Yes, he could not help himself and was unable to speak.
Q. During your father's illness, I mean the paralysis of the left leg, did he ever succeed in walking alone?
A. No, he could not move the leg and we had to help him all the time.
230 Q. Did he never manage to use his right leg?
A. He dragged it.
Q. Could he not walk alone?
A. No, he had to be helped.
Q. Was he ever able to use his right arm?
A. No, the right arm was practically dead. We had to help him along and hold his arm like this (Witness indicates by a motion.)
Q. Considering your father's condition, he at no time was able to give any instructions or take any action on any matter whatever?
A. He was not in his right mind, and his tongue was powerless to speak.
Q. Do you know what doctor attended your father?

A. Doctor Candelas.

Q. Do you remember what Doctor Candelas recommended as to your father's removal to the Escolta—*wh*ere you present whenever the doctor called?

A. We were all present.

Q. What did Doctor Candelas say?

A. He advised us to take him out of the house, which had such unpleasant recollections for him. He was very fond of my mother, and, well all the rooms brought up sad memories to him.

Q. When you talked with your father, could you understand him?

A. He could hear, but he could not speak and could not use his arm.

231 Q. Why do you say that he could hear you?

A. Because he attempted to answer, but could not do so; he stammered so badly. Whenever he wanted something, we asked him what he wished and he would simply stare at us and stammer. He looked as though he understood what we said but could not reply.

Q. Then when you talked to your father, you think he understood what you said?

A. He understood, but could not speak.

Q. Did he ever articulate any words?

A. Very few; practically none; he stammered so badly; he could not speak.

Q. But he could speak some, could he not?

A. He could only move his tongue. The Doctor said that half of his body was dead. His mind was like that of a child, and he often cried without knowing why.

Q. Did your father speak Tagalog?

A. No; he had lived here for forty years, and all that he could say was: "Tubig"—that means "Water," "Saran an pientu"—which means "Close the door," "Saguin"—which means "Banana."

Q. Did you know Francisco's wife before you left there?

A. Yes, sir.

Q. Did you ever associate with her?

A. Yes, but very little.

Q. Where was Francisco Enriquez living at that time?

A. At number nine Calle David, in front of our house.

232 Q. Did you ever go to your brother's house?

A. Very seldom.

Q. On the few occasions that you went to your brother's house, did you ever see his wife?

A. Yes.

Q. Then you knew Carmen de la Cavada at that time, did you not?

A. Yes, I did know her.

Q. Did you associate with her.

A. Very little; I very seldom went to her house.

Q. What about your other brothers—did they go to Francisco's house?

A. I do not remember.

Q. Did you ever go to his house in company with your other brothers?

A. I do not remember.

Q. That is all.

Questions by Mr. MONTAGNE:

Q. Do you know why Carmen de la Cavada did not go to your father's house?
A. Because my father would not see her.
Q. Do you know whether your father had given any instructions with regard to Carmen de la Cavada?
A. Yes, he would not see her; he did not even want her around him; she was the subject of too much scandal around Manila, and he would not see her.

Q. That is all.

233 JUNE 4, 1902.

Fifth Session.

Testimony of Rafael Enriquez,

who, having been duly sworn according to law, testified that his name was Rafael Enriquez.

Questions by Mr. MONTAGNE:

Q. Are you one of the sons of Antonio Enriquez y Sequera?
A. Yes, sir.
Q. How old are you?
A. Fifty-three years.
Q. Are you the next younger brother of Francisco Enriquez?
A. Yes, I am two years younger than he.
Q. Where did you live during the years 1882 and 1883?
A. In Paris.
Q. Where were you at the time your father was taken ill?
A. In Paris.
Q. Did you see your father in Europe?
A. I went to meet him—my brother advised me of his coming.
Q. What brother?
A. My brother Francisco notified me of my father's coming. The letter in which he advised me of his coming has been introduced in evidence.

Q. Where did you meet your father?
234 A. In Barcelona, on board of the steamer.
Q. Can you state approximately the date on which you met your father at Barcelona?
A. In May, 1883. I think it was in May.
Q. How long did your father remain in Barcelona?
A. A very short time. A few days after his arrival, and while at the hotel, he had a shock and the children and myself were very much alarmed. I knew that he was subject to a recurrence of the same ailment, and having made the sacrifice of bringing him home to Spain, I decided to take him to Paris for the purpose of consulting the

physicians there about his illness, where the best in science and art and everything else is to be found.

Q. Did you say that you remained in Paris a short time?

A. Yes, sir.

Q. Where did you go after you left Barcelona?

A. We went to Paris.

Q. Did you take him to Paris?

A. Yes.

Q. How long did you stay in Paris?

A. We stayed there until the month of October of that year.

Q. Do you know whether your father was treated by any physicians in Paris?

A. Yes.

Q. Was he examined by them upon his arrival there?

A. Yes, sir, by the best and more prominent physicians of Paris.

Q. Do you know whether he was examined by Doctor Hortelout?

A. Yes, sir; and also by doctors Dubrisay and Charpentier.

235 Q. How long did you stay in Paris?

A. Until the month of October.

Q. After you left Paris, where did you go?

A. To Spain.

Q. To what part of Spain?

A. To Barcelona. He went back alone, because I could not go with him.

Q. What members of the family were with your father in Paris?

A. My sister Carmen.

Q. Who accompanied your father from Paris to Barcelona?

A. My sister Carmen, and my uncle the Marquis of Villacastel.

Q. Did your uncle the Marquis of Villacastel attend your father while in Paris together with you?

A. No, sir, he simply went there twice, remaining only a few days, and after that he returned to my brother.

Q. Was the Marquis of Villacastel your father's brother?

A. Yes.

Q. Were you present when your father died?

A. No, sir; he died the year after I left him. I was never informed of his death, but was compelled to find out for myself. Three months had elapsed and I had never been told that my father was dead.

Q. Do you mean that you were constantly with your father from the time of his arrival in Barcelona until he left Paris?

A. Yes.

Q. While you were with your father did you observe the course of his illness.

A. Yes, sir.

236 Q. Can you state to the court the condition of your father at the time while you were with him?

A. Yes.

Q. Then explain to the court.

A. Apparently, my father had great difficulties. He had lost his mind. I had no idea of it, and had never had an occasion to observe

an illness of that nature. He was absolutely confident that the science of the Parisian doctors would return to him his mental faculties and his life. My father, however, continued in the same helpless condition. With reference to his ability to move his body, I have nothing to add to what I have already stated. I previously stated that he could not move except with great difficulty. We had to help him in order to carry him from one place to another. In Paris, his condition improved considerably; he improved very much. In view of his improved condition, I decided that he should take some exercise, to the extent that I took him occasionally for a drive. One afternoon we were out driving as usual, and on the way back to the house it commenced to rain; we stopped, and he sat in a chair, while I went into a store to buy a pair of boots. Whilst sitting on the chair he attempted to lean on another chair nearby, missed it and fell on the floor and fractured one of his legs. I immediately called the doctors, and they told me to notify the family—apparently because they realized that he might die as a result of this accident, or that he might have another shock like what he had before. In view of this, I advised the family to come to Paris and look after my
237 father during his illness, but my orders were never obeyed. They waited for instructions from my elder brother, who had directed them to do nothing except what he would order from Manila. All of them had to obey whatever he said. I never thought that such could be the case. I realized my father's condition and the nature of his ailment. It seemed to me that the most natural thing was that the old man should be surrounded by his children, but it was absolutely impossible for them to come, as I had advised them to do. I even sent them a telegraph, saying that I would come after them, but it was of no avail. It was then that my uncle the Marquis of Villacastel came to inform me that it was only my brother who could give orders and decide what the family should do. My uncle further told me that I also had to obey him; but I told him that this could not be. During all that time my father was visited by the physicians. I continued to receive letters from my brother Francisco, wherein he communicated with my father upon various matters, as though he was in possession of all his senses, when, as a matter of fact, he was unable to write and could not understand anything about that. I then consulted the physicians, and they told me that my father was unable to investigate, look into, or have anything to do with such matters. I also asked them whether there were any probabilities of his recovering entirely, and they told me, "No, sir, he will never be cured; it is impossible; he will never recover his faculties," and such was his condition until he left Paris.

238 Q. During the time that you were with your father, did you ever hear him speak?

A. There was a time when he could babble, but very badly; he stammered awfully; sometimes I would ask him a question, and delude myself with the idea that he understood what I said. I cannot exactly describe his condition: He had no will power; he had no discernment.

Q. Where did you say that your father was when you noticed his improvement?

A. In Paris.

Q. Can you state how he babbled?

A. Very little; one could hardly understand what he said; he would go like this "Como gro roro ruru gru."

Q. When did you return to Manila?

A. In the year 1896.

Q. In what month?

A. In the month of May.

Q. Did you take a boat from Spain?

A. Yes, sir, from Spain.

Q. Have you been in Manila ever since?

A. Yes.

Q. Are you employed?

A. Yes; and I have been compelled to abandon my family there for six years on account of this litigation.

Q. Where?

A. In Spain.

Q. Do you mean that you have abandoned your wife in Spain on account of this litigation?

A. Naturally so. I can not occupy myself in anything, and I have to settle this matter as soon as possible so that I may
239 go back to them. I am ready to make any sacrifice, because this is a most ruinous situation—having to be here while the family is in Spain.

Q. Are you the attorney-in-fact for the brothers and sisters who are now in Spain, with the exception of Carmen?

A. Yes.

Q. That is all.

240 Questions by Mr. CHICOTE:

Q. When your father arrived in Barcelona do you remember what was his mental and physicial condition?

A. The condition I have just stated.

Q. Could he not move about, while in Barcelona?

A. Not by himself.

Q. Could he not take any action on any matter and communicate it to you?

A. He had no will power. He acted like a baby, and would weep on the slightest provocation. He was absolutely devoid of will power.

Q. Do you know who attended your father in Barcelona?

A. I did. We stayed there only a short time. * * *

Q. I mean, after you arrived in Barcelona.

A. I do not remember the doctor who treated him. He was a doctor who lived nearby, the first one we came across. There was one living near the Rambla, and we called him. As I had lived in Paris for many years, and knew the difference between the French doctors and the doctors there, a friend of the family, whom I had known at the Royal Palace, came to see my father and told me that since we had made the sacrifice of bringing him to Europe from such

a distant country we should take him to Paris, where the most prominent physicians were to be found, and there consult them about my father's disease. He assuring me that he would entirely recover, and I being of the same opinion, decided to immediately take him to Paris and secure his complete recovery.

Q. Your father at that time was relatively strong and was conscious of what was going on around him?

A. No, sir; my brothers and sisters controlled everything,
241 and we all had to wait for instructions from Manila. This was the cause of much confusion, because sometimes we could not afford to await orders from Manila, particularly on urgent matters.

Q. Is that what you found upon your arrival at Barcelona?

A. Yes, and when I met my brothers I realized that they could not do anything without instructions from Manila.

Q. Did you arrive in Barcelona first, or were you already there when your father arrived?

A. No, I arrived there first, and immediately went to the steamer, after making preparations for his accommodations and arranging all that was necessary for his stay there.

Q. But was your father in such a helpless condition?

A. Yes, sir, and that is the best proof of it.

Q. Was he actually helpless?

A. Yes, sir.

Q. Did you consult your brothers' wishes when you took your father to Paris?

A. Yes, sir; we were all seized by the same fear—that my father would have another shock, which would endanger his life, and we all desired by all means to avoid his death; and for this reason we concluded to take him to Paris before he would have a relapse.

Q. The shock that he had in Barcelona—how long did it last?

A. A very few hours, because it was merely a mild shock. We thought that it would prolong itself, but fortunately it passed away; nevertheless, we feared a repetition.

Q. Do you remember in what month that happened?

A. In the month of May.

242 Q. What was the difference in temperature at that time of the year between Barcelona and Manila—was it about the same?

A. I know from experience that there is no comparison at all. We simply deceived ourselves about the climate and temperature. I still have the clothing that I used to wear in Spain in summer, and if I wore it there even in the hot season I was apt to catch a cold; if I wore it here I would not be able to resist the heat—I would suffocate myself. You cannot wear any clothes here in Manila except these, whereas in Spain you can wear woolen clothes, and even then you can catch a chill very easily. There is quite a difference in climate between Spain and the Philippines.

Q. Do you know whether your father's condition while in Barcelona was the same as his condition in Manila?

A. I cannot say exactly, because I was not here at the time. All

diseases have their periods of increase and decrease, and it would not be surprising that he had generally improved somewhat during the course of his illness; but apparently,—that is to say, from what you could see,—I think it was always the same, with very little difference perhaps, whatever his improvement really may have been. I cannot say as to that, positively, because I was not in Manila at that time.

Q. While he was in Paris his condition was apparently the same as when he arrived in Barcelona and during his stay in Barcelona, was it not?

A. Notwithstanding his relative improvement, he was practically in the same condition. However, I founded my hope, and the happiness of the whole family, in the belief that the Parisian
243 doctors would restore to my father his mental faculties, and that they would be able to overcome the disease. That is why I thought that he would again recover his normal condition. However, I realized that this was rather improbable, and came to the conclusion that it was a mere delusion on my part.

Q. In other words, you secured an improvement in your father's condition?

A. Very little.

Q. Can you state what the improvement consisted in?

A. In his general aspect, in that I could help him along better, that I could make him walk along with me, and finally, that he was not so ackward in moving, in that he did not drag his paralyzed leg so much, and that he could move and walk better than before.

Q. Did you ever leave him alone?

A. I always had to hold him.

Q. Could he walk by simply leaning on your arm?

A. It was necessary to hold him by the two arms. He had the whole right side of his body practically dead, and the only part that he could move at all was the left side; and whenever he had any call from Nature I practically had to drag him and be constantly with him. I could not abandon him a single moment, and I had to feed him with a spoon.

Q. In other words, the paralysis from which your father suffered extended over the whole of the right side and the right leg, did it?

A. Yes, and he never recov[illegible]d the use of it again.

Q. Was the whole [illegible]de dead?

244 A. Yes.

Q. What was his physical improvement, then—what did it consist in?

A. In many things. He could eat more, and I could carry him along more easily; his appearance had improved, and I even had the hope that my father would some day be able to recover control over us, as we all needed his advice very much.

Q. Then your father's mental condition did not improve at all, did it?

A. He never recovered his mental faculties, no, sir.

Q. Do you think your father was capable of making himself understood?

A. I think he understood what I said to him, because he used to not his head. He bab-led a few words. He was not in the condition in which you seem to think he was. You think he had nothing but a stomach. Although his condition at that time revealed a certain improvement, the doctors told me that even though he might recover his speech he would never recover his will power, and would be incapable of anything, and be absolutely useless. They gave me a scientific explanation of this, which I cannot now remember.

Q. At the various conversations you had with your father was he consistent?

A. Sometimes I would ask him a question; he assented to what I said, but I was unable to judge of his degree of intelligence at that time.

Q. Did you notice that he had enough intelligence to understand your questions?

A. He would either say, "Yes," or "No," with the head.

245 Q. You mean to say that he nodded his head this way (from right to left) and from left to right?

A. Yes, sir, I think so.

Q. And was he suffering from hemiplejia at that time?

A. He has that, according to my brothers, until the time of his death.

Mr. CHICOTE: That is all.

(Mr. Montagne then introduced in evidence a certified copy of a document, attached to the record of an action, beaing No. 443, wherein Rafael Enriquez is plaintiff and Francisco Enriquez and his wife, Carmen de la Cavada, are defendants. The said document is a copy of a deed of sale of a house and lot, executed by Antonio Enriquez in favor of Carmen de la Cavada before the notary public Miguel Torres, on the 27th of March, 1883.)

The Court then directed the attorney for the defendant to secure a copy of the said instrument, which, after having been compared by the Official Stenographer; should be attached to the evidence in this case. (The instrument in question was marked Exhibit —.)

Mr. Montagne then stated that he desired to ask other questions of Carmen de la Cavada de Enriquez. In view of the fact that she is now confined to her house, and is unable to come to the Court, he asked the Court that her testimony be taken at her own house.

The Court then ordered that counsel, accompanied by the Official Stenographer, call at the residence of Carmen de la Cavada de Enriquez, for the purpose of taking her testimony, as suggested by the attorney for the plaintiffs.

The Court then adjourned until three o'clock in the after-

246 noon.

I hereby certify that the foregoing is a true transcript of my notes.

(Signed) JULIO JIMENEZ JEREZ,
Official Stenographer.

247 In pursuance *of* the order of the honorable Judge of Part II of this court, Messrs. Julio Jimenez Jerez, Official Stenographer of the court, Attorney Montagne in behalf of the plaintiff-, and Attorney Alfredo Chicote in behalf of the defendant-, repaired to the residence of the said Carmen de la Cavada de Enriquez, No. 296 San Sebastian; and the said Carmen de la Cavada, having been first duly sworn to tell the truth, the whole truth and nothing but the truth, in answer to counsel's questions testified as follows:

Questions by Mr. MONTAGNE:

Q. Do you remember, Mrs. Enriquez, the circumstances of your having acquired by purchase the share which George Enriquez had in the estate of Antonio Enriquez y Sequera, deceased?

Mr. CHICOTE: I object to the question, as irrelevant and immaterial.

The STENOGRAPHER: The Court will pass upon the relevancy of the question.

A. I do not remember.

Q. Do you remember the amount you paid Antonio Enriquez for that share or interest in the estate?

A. I did not pay any amount to George Enriquez.

Q. Do you remember having purchased the share which George Enriquez had in the estate of Antonio Enriquez y Sequera, from Victoriano Reyes?

A. Yes.

Q. Do you remember the approximate date on which you acquired that interest?

A. I do not remember the date. The instrument will show that; I know very little about dates.

248 Q. How much did you pay Victoriano Reyes?

A. Seven thousand pesos.

Q. Did you pay him that amount before the execution of the instrument?

A. When we went to the notary's office.

Q. Did you deliver the money to the notary?

A. Yes.

Q. Did you carry that money in banknotes, paper, silver, gold, or what?

A. Spanish-Filipino Bank-notes.

Q. Was it in the morning or in the afternoon?

A. I do not remember.

Q. Who were present in the notary's office?

A. The clerk.

Q. Who was the clerk?

A. Barrera—Mr. Enrique Barrera.

Q. Who else?

A. Some others who were there as witnesses.

Q. Was your husband there?

A. Yes.

Q. Do you remember who the witnesses were?

A. I cannot tell you who the witnesses were.
Q. Did you deliver the money to Victoriano de los Reyes direct?
A. He was present in the notary's office.
Q. To whom did you deliver the money?
A. I paid it into the office, in the presence of everybody.
Q. Did you deliver the money to the notary or to Victoriano Reyes?
A. To Victoriano Reyes.
Q. Did you not deliver it to the notary?
249 A. No, I delivered it to Victoriano Reyes, in the presence of the notary.
Q. Did your husband give you that money?
A. No, it was mine.
Q. How long before that transaction had you acquired that money?
A. Before I was married I had money which I had invested in business, and with the accumulated profits of the business I was able to buy that house.
Q. Did you have that money before you were married?
A. Yes.
Q. You mean in addition to the money with which you bought the house on Calle David?
A. Yes. When I was married I had three thousand pesos in jewels, which amount I invested in the provinces in grain, jusi, sinamay and other native cloth, and it was from this business that I obtained the money.
Q. Where did you buy those jewels?
A. I bought them from a person who brought them to me. I saw that it was a profitable purchase; I bought them, and sold them again, as business is usually transacted.
Q. Do you remember the name of that person?
A. Oh, my dear Sir, how can you expect me to remember the name of the person! That person came to me, I paid her the agreed price, and that settled it.
Q. Was she a woman?
A. She was a woman engaged in the brokerage business.
Q. What kind of jewels were they?
A. Diamonds, rings, earrings, gold-chains, and stars.
Q. Do you remember approximately the date?
250 A. Long before I was married.
Q. Did you sell those jewels before you were married?
A. I took those jewels to the provinces, and it was after I had been married that I realized that there were good prospects in the jewel business.
Q. Did you sell the jewels in the provinces?
A. I dealt in them in the provinces.
Q. In what provinces?
A. In Iloilo and Antique.
Q. Was this your only business—the selling of jewels in the provinces?

A. I first engaged in the purchase and sale of grain and native cloth?

Q. You mean in the provinces?

A. Yes.

Q. How long did you live in the provinces?

A. I do not remember.

Q. How long before that did you buy the property on Calle Numancia?

A. Long before that.

Q. Where did you have your store?

A. I had no store; I had no public establishment: I bought these articles and turned them over to my friends for sale; I had no shop.

Q. Did you not have some sort of a shop where you sold your native cloth and conducted the business in which you were then engaged?

A. A friend of ours, a doctor in the province where we lived, borrowed money from me, and for each half dollar he would give me a cavan of rice.

251 Q. Where did you store your rice?

A. In a warehouse which I rented for that purpose, in Iloilo, as well as in Antique, from a Chinaman.

Q. How many warehouses?

A. One.

Q. Where was it located?

A. In the capital of the Province of Antique.

Q. Who was in charge of the warehouse where you had the grain?

A. Dr. Rey had it.

Q. Where is Doctor Rey now?

A. He was then in the province; I do not know where he is now.

Q. Is he still living?

A. I do not know.

Q. That money which you invested in the purchase of the house on Calle David, the house on Calle Numancia, the interest which George Enriquez had, all of which you acquired from Victoriano Reyes—did you make that money in that business?

A. Yes, it was the profits of my business.

Q. Can you state how long you were out in the provinces while you were engaged in that business?

A. I do not remember.

We were in the provinces for several years?

Q. Was it five years?

A. No, I think it was six years at least.

Q. Where did you have that money kept?

A. In my possession.

Q. In your wardrobe?

A. Yes, in my wardrobe.

Q. What kind of a wardrobe was it?

252 A. The ordinary wardrobe, of common wood. I do not remember the particular kind.

Q. You mean to say that you made all that money in that business?

Q. Yes.

Q. In the jewel business, too?
A. Yes.
Q. Did you not have an iron safe?
A. I had no safe.
Q. Do you remember when you were married?
A. I do not remember.
Q. Can you state in which parish church you were married?
A. I do not think it is necessary for me to say.
Q. In what church were you married?
A. I do not think it is necessary for me to say; I do not have to account to anyone for my own acts, and I am not disposed to answer any questions unless they have some bearing on the complaint in this case. Do not ask me any such questions, because they are absolutely irrelevant, and nobody has anything to do with my private life.
Q. Do you remember the priest who married you to Francisco Enriquez?
A. Neither.
Q. Do you remember the date and church—was it here in Manila?
A. I do not remember anything about that. I have already stated that that is nobody's business.

Q. That is all.

Questions by Mr. CHICOTE:

Q. Do you remember having executed a private agreement
253 with Francisco Enriquez, wherein you agreed that each of you should manage your individual property?

Mr. MONTAGNE: I object to the question as irrelevant and incompetent, no foundation having been laid therefor.
The STENOGRAPHER: The Court will pass upon the relevancy of the question.

A. Yes.
Q. Do you remember whether, while in Manila, you executed an instrument before a notary public wherein you agreed that your respective properties should be kept separately?

Mr. MONTAGNE: I object to the question, for the same reason as before.
The STENOGRAPHER: The court will decide.

Q. Your property and that of your husband, Francisco Enriquez, have always been kept together?

Mr. MONTAGNE: I object to the question, on the same grounds.
The STENOGRAPHER: The Court will decide.

A. We have always kept our respective properties entirely separate, because it was more convenient to do so.
Q. Do you know all the children of Antonio Enriquez?
A. Yes, from the eldest to the youngest.
Q. Are you the godmother of any of them?
A. I do not remember.
Q. Did they frequent your house?

A. Yes; some of them dined with me almost every day.

Q. And did you often visit their house?

A. Yes. Rosaria, the wife of Antonio Morales, gave birth to a child in my own house, and Cayetano, when he came from
254 Mindoro, stopped at our house until he went to Spain.

Q. Did Antonio Enriquez, Junior, ever live in your house?

A. Yes, right here in this same house, but in one of the downstairs rooms, which was assigned to him so that he could have more freedom. He lived and boarded here, and did as he pleased, without paying a cent, and we even furnished him with the use of a horse.

Q. Do you remember whether Antonio Enriquez occasionally went out while he lived on the Escolta?

A. Yes, many times.

Q. Do you know of any place where he usually went, of where he was fond of going?

A. He would usually go to the house on Calle David. It was his favorite place, that being the house where his wife had formerly lived, as they had been a very happy couple and loved each other very much, and the poor old man had great pleasure in visiting the apartments where he and his wife had been so happy in her lifetime.

Q. Do you remember where the furniture was taken to when Antonio Enriquez went to Spain?

A. The furniture was on Calle David. They took to the Escolta only such pieces as were absolutely necessary—for instance, a bed. They did not carry any beds for the others, because they slept on the floor. To save the cost of transportation they took with them only one bed, one small center-table, one dining table, one chair and two sofas—and that was all the furniture that was taken to the new house, the rest remaining on Calle David.

Q. Do you remember whether that furniture was sold at
255 public auction?

A. Yes.

Q. Do you know where the furniture was sold?

A. On Calle David.

Q. What became of the furniture that was taken to the house on the Escolta?

A. It was taken back to the house on Calle David.

Q. Do you remember whether Manuel Enriquez, the brother of Antonio Enriquez, deceased, frequently went to the house?

A. Every day—in the morning, during the day and in the evening.

Q. Did you ever see Antonio Enriquez speaking with Manuel Enriquez?

Mr. MONTAGNE: I object to the question, because it has no bearing on this case.

The STENOGRAPHER: The Court will decide.

A. Yes; the two brothers talked to each other.

Q. Do you know whether Antonio Enriquez was constantly assisted by any servant?

Mr. MONTAGNE: I object to the question, as immaterial.

The STENOGRAPHER: The Court will decide.

A. He had very many sons and daughters, and none of them would have allowed any servant to touch the old man. I never saw any servant go into the room to help him.

Q. Do you know whether Antonio Enriquez could speak Tagalog?

Mr. MONTAGNE: I object to the question, as immaterial.

A. I never heard him speak Tagalog.

Q. Were you an intimate friend of Antonio Enriquez?

Mr. MONTAGNE: I object to the question, as immaterial.

256 A. Yes.

Q. You have stated that Antonio Enriquez, while he was on the Escolta, was able to go to the house on Calle David, have you not?

A. Yes.

Q. Who accompanied him?

A. I do not know—maybe his children did. His children used to take him to the house on Calle David. I lived in the house in front. I used to go there, until they removed to the Escolta.

Q. Approximately how many times did you see his children take him to the house on Calle David?

A. I cannot say; quite a number of times; he was there most all the time.

Q. Did he have a bed on Calle David?

A. Yes.

Q. And during his stay on the Escolta?

A. Yes, they took a bed along with him. The children slept on the floor. They also took another bed for Cayetano, who was unable to sleep on the floor; so that they took two beds from Calle David to the Escolta with them. The rest of the family slept on the floor.

Q. While Antonio Enriquez was living on the Escolta, do you know whether he ever slept in the house on Calle David, and can you state how often Antonio Enriquez used to go to the house on Calle David while he was on the Escolta?

A. He would never have left the house on Calle David of his own accord, because since his wife had died he had spent all the time in the room where she died; he did not want to leave that
257 room. Whenever he went to the house on Calle David it was quite a consolation for him to go into the room where his wife had died.

Q. How often did he go?

A. Very often.

Q. You mean every day?

A. Not every day, but very often.

Q. Once a week?

A. Oftener than that.

Q. How often?

A. Three or four times a week.

Q. Until the time he left for Spain?

A. Yes.

Q. Do you know whether he was carried in arms?

A. He was supported by one arm, and leaning on a cane—which he held in his left hand,—he would go down the steps and walk slowly to the other house.

Q. Could he climb up the stairs of the same house?

A. Yes, supported by someone.

Q. How long would he usually stay in the house on Calle David?

A. He ordinarily went there about half past eight. Sometimes he would go between nine and ten, and remain there until twelve or twelve-thirty. It was rather difficult to get him out of the house on Calle David. His greatest pleasure was to be where his wife had died. Besides, he had lived in that house for a long time, with her.

Q. Do you know whether he was accompanied by his daughter Trinidad?

A. Trinidad was one of those who occasionally accompanied him.

258 Q. Did you ever accompany him from the Escolta to Calle David?

A. Yes; sometimes I would go there and then go to the Escolta.

Q. At that time that you lived in the house in front?

A. Yes.

Q. Could you see everything that happened there?

A. Not everything.

Q. Could you see Don Antonio when he entered the house?

A. Yes; I could see the parlor very well, but not the back rooms of the house.

Q. Did you go to see Antonio Enriquez whenever he went to the house on Calle David?

A. Yes.

Q. Did you visit the house on Calle David shortly after he was removed to the Escolta?

A. Yes.

Q. Did you visit the house of Antonio Enriquez shortly before he was removed to the Escolta?

A. Yes. He was removed to the Escolta because he was much better there.

Q. Do you remember whether you saw him on Calle David two days after he was removed to the Escolta?

A. I cannot say.

Q. Do you know whether he visited the house on Calle David the same week during which he was removed?

A. I cannot say. Shortly after he was removed to the Escolta I saw him in the house on Calle David.

Q. What do you mean by that?

A. That a few days afterwards—I do not remember whether it was the next day or four or five days afterwards—he visited the house.

All that I can say is that shortly afterwards I saw him in 259 the house on Calle David.

Q. The first time you saw him on Calle David was four or five days after he was removed, was it not?

A. I cannot say.

Q. Did you speak to him?
A. Yes.
Q. Did you usually speak to him?
A. Yes, many a time. Sometimes I simply passed him and at other times I would stop and speak to him.
Q. Could you carry on a conversation with him?
A. Yes, and he understood everything I said.
Q. Could you converse with him in an intelligent manner?
A. Yes, I could talk to him about any matter, and he made himself understood very clearly and comprehended everything.

Q. That is all.

Mr. CHICOTE:

Q. Do you remember approximately the date on which Antonio Enriquez was removed to the Escolta?

Mr. MONTAGNE: I object to the question, as irrelevant.

A. About the middle of December.
Q. Of what year?
A. I do not remember the year. I have already stated that I can remember very little about dates.
Q. Do you remember approximately the first time that he went from the Escolta to Calle David?

Mr. MONTAGNE: I object to the question, as irrelevant.

A. A few days afterwards.
Q. Can you not state specifically?
A. No, sir.
260 Q. Can you state the number of days?
A. No, I cannot. It was a few days after he was removed to the Escolta that he went to the house on Calle David.

Q. That is all.

I certify to the correctness of the foregoing testimony given by Carmen de la Cavada de Enriquez, at her residence, No. 296 Calle San Sebastian, Manila, P. I., on the fourth day of June, 1902, at eleven a. m.

(Signed) JULIO JIMENEZ JEREZ,
Official Stenographer.

261 JUNE 4, 1902.

Sixth Session.

Mr. Montagne stated to the Court that with the testimony of Carmen de la Cavada, which was taken this morning at her house, he rested the plaintiffs' case.

The Court then informed Mr. Chicote as counsel for the defendant- that he could proceed to introduce such evidence as he desired to present.

Mr. Chicote introduced in evidence Deed No. 708, relating to the sale of a part of the estate of the deceased Antonio Enriquez and

Ciriaca Villanueva, which said deed was executed by George Enriquez, one of the surviving children and heirs of the said deceased, in favor of Victoriano Reyes, for the sum of seven thousand pesos, before the notary public Enrique Barrera y Caldes, in Manila, November 14, 1885.

Testimony of Enrique Barrera y Caldes,

who, having been duly sworn according to law, testified that his name was Enrique Barrera y Caldes, a notary public residing at No. 4 Calle Olivares of this city, his private residence being No. 202 Calle Anda.

Questions by Mr. CHICOTE:

(Mr. Chicote read the deed introduced by him in evidence, and which is attached to the record, marked Exhibit No. 1.)

Mr. CHICOTE: This instrument which I have just read appears to have been executed before you?

A. Yes, executed and sealed.

Q. The statements contained in this deed—were they signed by the parties who appeared before you?

262 Mr. MONTAGNE: I object to the question, as immaterial and because it relates to a deed which is not an integral part of this case. It is a deed to which one of the witnesses for the plaintiff referred, on cross-examination.

The COURT: What is the date of that instrument?

A. 1885.

Mr. MONTAGNE: I object to the introduction of that instrument in evidence, for the reasons already stated. Furthermore, this instrument was obtained by reference to the testimony of Victoriano Reyes, who has testified in regard to the same on cross-examination by the defendant.

The COURT: The witness may answer.

A. I certify to everything that is contained in that instrument and to the identity of the parties who executed the same.

Mr. MONTAGNE: I object to the witness's answer, and ask that the same be stricken from the record.

The COURT: The objection is overruled.

Mr. MONTAGNE: Exception.

Mr. CHICOTE:

Q Are the facts contained in that instrument, with reference to the kind of money that was paid, true?

Mr. MONTAGNE: I object to the question, as incompetent and immaterial, and further, because it is leading.

The COURT: I cannot allow the question, because in my opinion the witness has already answered.

Mr. CHICOTE:

Q. Did you know Miguel Torres?

A. Yes, he also was a notary public.

263 Q. Did you know him in the years 1882 and 1884?

A. I knew him for a longer time than that. We studied together in the university. I knew him until 1887, when he died. We were very intimate friends.

Q. Did you have anything to do with him as a notary public?

A. Yes, sir; we were members of the same profession.

Q. Considering your intimacy with Mr. Torres, do you think that he was an honest and truthful man?

Mr. MONTAGNE: I object to the question, because it calls for the opinion of the witness upon a matter which is not in controversy here, and further, because it is immaterial.

The COURT: The question is disallowed, because the law presumes that every public official acts in good faith, and the counsel for the other side not having introduced any evidence against the integrity and good reputation of the said Mr. Torres, I cannot allow any evidence upon this point.

Mr. CHICOTE: That is all.

Questions by Mr. MONTAGNE:

—. Do you remember approximately the date on which that instrument was executed?

A. The date is stated in the instruments themselves, which have just been read, bearing Nos. 708 and 205 (they are marked Exhibits 1 and 2.)

Q. Do you remember the date on which they were executed?

A. No, sir, because I execute very many documents, and my intelligence is not so high that I can remember every instrument executed before me.

Q. Of course, you cannot remember the facts stated in each instrument. Those you can only ascertain by reference to the instrument itself, is it not so?

264 A. Yes, sir.

Q. It is the custom, is it not, that when a notary is charged with the preparation of a public instrument,—it is the custom, I say, first to make a rough draft, before the parties formally appear?

A. Yes, sir, that is the custom.

Q. And is it not true that the statements contained in the instrument are drafted by you a few days before the parties appear?

A. Yes; this is a right which the parties have under the law. The parties order the notary to prepare the instrument, and give him the necessary data therefor. They then examine this rough draft, and once approved by them it is formally written out, and signed in the presence of the witnesses.

Q. Those instruments prepared by you you customarily prepare before the parties sign them, do you not?

A. Yes, it must necessarily be so previously prepared, and this is the reason why it is called a "proposed deed."

Q. Is it not a fact that you generally prepare the instrument a few days before it is actually signed by the parties?

A. Yes.

Q. Do you remember who directed you to prepare those instruments?

A. George Enriquez. Under the notarial law, at the time of the execution of the instrument the parties generally requested the notary to prepare a rough draft of the proposed deed, giving him the necessary data, and after the instrument was fully written out it was signed by them.

Q. Those instruments were generally executed and signed
265 long after they had been prepared, were they not?

A. That depended on the will of the parties. Contracts could be signed within forty days after they had been ordered and prepared.

Q. You mean after they had been written out?

A. Yes. A memorandum was made of the terms of the contract, which was afterwards written out in full.

Mr. MONTAGNE: That is all.

(Mr. Chicote introduced another instrument, No. 205, relating to the sale of a part interest in the estate, for the sum of seven thousand pesos, executed by Victoriano Reyes in favor of Carmen de la Cavada, the latter being accompanied by her husband, Francisco Enriquez y Villanueva, before the notary public Enrique Barrera y Caldes, in Manila, April 15, 1887. Marked Exhibit No. 2.)

Mr. CHICOTE: That is all.

266 *Testimony of Mariano Garcia del Rey,*

Who, having been duly sworn according to law, testified that his name was Mariano Garcia del Rey, a physician by profession, residing at No. 206 Calle Palacio.

Questions by Mr. CHICOTE:

Q. Have you lived in Barcelona?

A. Yes.

Q. About how long?

A. Six months.

Q. Did you know, and did you have any dealings with, Dr. Bartolome Robert, of that city?

A. Yes.

Q. Are you acquainted with the handwriting and signature of Dr. Bartolome Robert?

A. Yes—for two reasons. First, because I have corresponded with him; and second, because I have seen him many times write out and sign documents. I now have in my possession one of those documents, which I accidentally found today and which I can show to the Court. This can also serve to refresh my memory as to the signature and writing of the said doctor.

Q. Do you recognize the signature on this document as the signature of Dr. Robert?

A. Yes, I recognize it as the handwriting and signature of Dr. Robert.

Q. Do you know whether Dr. Robert is now dead?

A. Yes, sir. I also know that they are going to erect a monument to him in Barcelona.

Mr. MONTAGNE: I object to the introduction of that document, because it is incompetent and immaterial, and has nothing
267 to do with this action. It purports to be a certificate, signed by a person who claims to be a doctor, and is dated at Barcelona, December 21, 1901—that is, about a year ago—and has no bearing on this case.

The Court ordered that the document be read.

Mr. Chicote then read the document in question, which was attached to the record and marked Exhibit "H".

Mr. CHICOTE: I introduce this document in evidence not as a public instrument or a certificate but as a private document of a deceased person.

The court, after consulting the provisions of Section 328 of the Code, allowed the said document to be introduced.

(Mr. Montagne objected to the ruling of the Court and excepted thereto.)

Mr. CHICOTE:

Q. Do you remember having seen, on the 28th of June, 1901, together with Dr. Altman, a certificate with reference to the disease of Antonio Enriquez, based upon the evidence in Case No. 21, and a certificate signed by Dr. Burgos and Dr. Garcia Ageo?

A. Yes, sir.

Q. In view of what you found in that record * * *

The COURT (interrupting): I cannot allow that question. Mr. Chicote must ask the witness whatever he wants with reference to the disease of Antonio Enriquez.

Mr. CHICOTE:

Q. Did you know Antonio Enriquez?

A. No, sir.

Q. A patient suffering from *hemiplejia*, and having lost
268 all power of motion on the whole left side of his body—do you think that by reason of this paralysis he necessarily could not speak and would have entirely lost his mental faculties.

Mr. MONTAGNE: I object to the question, as incompetent and immaterial, and because it does not relate to any facts to which the other witnesses have previously testified, and further, because it assumes facts which have not been previously established.

The COURT: The witness may answer.

Mr. MONTAGNE: Exception.

A. A patient suffering from entire *hemiplejia* affecting half of his face, part of his tongue, his eyes and his ears may preserve b[illegible]

mental faculties intact. At the present time I have under my care a patient who has suffered from the same ailment. He is the husband of a lady who now works in the Ayuntamiento. He has been suffering from *hemiplejia* for the last two months. At first, he had some external symptoms, but two days afterwards he recovered his speech. The paralysis of his limbs continues, but he preserves his mental faculties.

Mr. MONTAGNE: I ask the Court to strike from the record the witness's answer, as incompetent and immaterial, having no foundation in this case.

The COURT: Objection overruled.

Mr. MONTAGNE: Exception.

Mr. CHICOTE:

Q. Do you think that Antonio Enriquez suffered from paralysis of the head, if he could turn it from side to side?

269 Mr. MONTAGNE: I object to the question, as incompetent, irrelevant and immaterial.

The COURT: Objection overruled.

Mr. MONTAGNE: Exception.

Mr. CHICOTE:

Q. Do you think that a person suffering from paralysis, and who cannot move his eyes and is unable to hear, can move his head from right to left and backward and forward,—if he were suffering from paralysis of the head?

Mr. MONTAGNE: I object to the question, as incompetent, irrelecant and immaterial.

A. I have already answered this question—when I said that a person deprived of the use of his tongue and unable to move his head, generally suffered from a real *hemiplejia* and had lost his mental faculties. That is all right. He could make those motions with the head.

Mr. MONTAGNE: I now ask that the witness's answer be stricken from the record, for the reason that it is simply based upon a supposition, and is not admissible in this case.

The COURT: Objection overruled.

Mr. MONTAGNE: Exception.

Mr. CHICOTE: That is all.

Questions by Mr. MONTAGNE:

Q. Does a person who habitually uses his right and his left hand express his will differently from one who uses his right hand?

A. Mentally, his will is not executed. He may express his will more forcibly with the right than with the left hand.

270 Q. Is there any difference between the cerebral organs of a person who expresses the will with his left hand and those of a person who expresses the will with the right hand?

A. Those are questions of such magnitude that they are sometimes considered important.

Q. Is the will usually expressed through the use of the right or of the left hand?

A. I do not understand the question. The will is not expressed by the use of the hands.

Q. Do you know where the cerebral organs controlling the power of speech are located?

A. Yes.

Q. Do you know whether there is any difference between a person who habitually uses the right hand and a person who habitually uses the left hand, so far as the cerebral organs are concerned?

A. When a person uses his right hand it is simply because the cerebral lobules which control the movement of this arm are more developed than those of the left arm.

Q. Supposing the case of a man who is entirely paralyzed on the whole of the right side, a person who habitually uses the right hand—not the left—and who has partially or totally lost his speech: what is ordinarily the effect that this has upon the cerebral organs of such persons?

A. Weakness.

Q. Is it not true that medical experience has demonstrated that a person who habitually uses the right hand and who is paralyzed on the whole of the right side, having totally lost his mental faculties and speech—that in such cases medical experience has
271 demonstrated that such a person has also lost all his will power?

A. In course of time, yes, of course he will. That depends on the duration of the illness. If the illness is much prolonged, he will.

Q. Is it not true that medical experience has demonstrated that all manifestations in such case, of a man who habitually uses the right hand and who is paralyzed on the whole of the right side—is it not true that medical experience has demonstrated that such manifestations reveal an entire absence of will power?

A. Yes, they reveal the absence of will power as to the physical functions, but not as to the other functions.

Q. Do the manifestations reveal a total loss of intelligence?

A. The questions propounded by counsel are hypothetical. There are many hypotheses, of a more or less scientific character, but they are all of particular cases. I cannot express any general opinion.

Q. Did you know Antonio Enriquez in his lifetime?

A. No, sir.

Q. Did you ever attend him as a doctor?

A. I never met him.

Q. What does medical science say about a person who habitually uses the right side of his body and is paralyzed on the whole of that side.

A. If there is any cerebral injury or hemiplegia it must be on the opposite side to that on which the paralysis exists.

Q. Is it not true that in such a case a person who is paralyzed on the left side loses his intelligence?

272 A. No. It may be that he will not lose his intelligence, even though the paralysis is on the other side.

Q. Supposing a person who uses the right side and a person who suffers from paralysis on the left side, not on the right, is it not true, I say that in such case a person does not lose his intelligence—is it not so in Medicine?

A. Generally, no. Even life may be lost, because there are various degrees of paralysis.

Q. How can you state that a person paralyzed on the left side of his body, who uses his right hand, and speaks, how can you determine the cerebral injury—how can you determine that?

A. That can be generally determined when the paralysis is general, in which case life ceases. If he preserves his intelligence he will gradually improve until he entirely recovers.

Q. Is the body of a person in its ordinary functions always controlled by the brain?

A. Yes.

Q. A person who habitually uses the left hand—what part of his brain controls his power of speech?

A. The right side.

Q. You mean to say that a person who loses the use of his right side or of the left side cannot speak. (Translator's note: Question otherwise unintelligible.)

A. Not entirely, because the cranial nerves constituting the twelve pairs (?) embrace both lobules.

Q. The right temple of a person who habitually uses the left hand seems to control his power of speech, does it not?

A. Partly, yes.

273 Q. Is it not absolutely true?

A. Not absolutely, no.

Q. Is it not true that medical science teaches us that the habitual use of the left hand by a person is an indication that he derives his power of speech from his right temple?

A. In the common sensorium, it cannot be confined to any particular place.

Q. Do you deny that medical science teaches that a person who habitually uses the left hand has the cerebral organs from which he derives his power of speech on the right temple?

A. Yes; such power resides in the brain generally.

Q. You deny, then, that a person who habitually uses his right hand has the organs from which he derives his power of speech on the left temple?

A. No; the pathological manifestations would be double. When paralysis exists on the opposite side there is no exact relation between the movements and the injured organ.

Q. Then science gives us to understand this, does it not?

A. Yes.

Q. Is it not true that the power of speech residing in the region of the left temple controls the left hand?

A. I do not believe so; I think the power is received generally.

Q. Is it not true that the power of speech of a person who uses the left hand is a reflection from the right temple?

A. Yes. Those are psychological investigations which are now

being made by the medical authorities, and while of great importance, in the opinion of some, others do not attach so much importance to them. In those cerebral psychological researches
274 conflicting results have been obtained, by which legal medicine has attempted to explain certain acts, by attributing the same to particular locations of that power. This is rather confused, and I am sorry that I cannot satisfy the lawyer on this point, but it is for the reason that there are so many conflicting theories.

Mr. CHICOTE: I do not usually object to the questions propounded by other attorneys. In my opinion, every question should be fully threshed out. For this reason, I have not heretofore objected to the questions which have been propounded to the witness by Mr. Montagne, which questions, to my mind, have nothing to do with this case. He has subjected the witness to a lengthy interrogatory upon medical questions, and I think that he should be already satisfied, for the purpose which he had in view. It has been established here that a person who could move the head and the eyes was not necessarily deprived of the power of speech, and Mr. Montagne should have confined his questions to that point.

Mr. MONTAGNE: The mental capacity of a person is in direct relation to the condition of his brain?

WITNESS: Yes.

Q. Can you state whether a person suffering from paralysis of the right side, who habitually uses his right hand, is also affected mentally as to his memory and all the manifestations thereof.

—. It might deprive him of his life, too. Your questions are so confused and so lengthy that I cannot keep track of them, and by the time you have finished I have lost all connection with the beginning.

Q. In case of a paralysis of the right side, of a person who actually uses the left arm, is it not true that such a case implies
275 a commotion more or less connected with the brain?

A. I do not know what you mean by the word "connected?"

Q. I mean, if it is in connection with the brain.

A. It has some connection, because it operates upon the nervous system.

—. Is it not true that in most of these cases the power of speech is endangered?

A. All the organs of the body are endangered, for it affects the hearing as well as the sight, and according to the seriousness of the attack it may even cause death.

Q. The paralysis of the right side of a person, who habitually uses the right hand, necessarily deprives such person of the power of speech?

A. It depends on the intensity of the attack.

Q. But not necessarily?

A. Not necessarily.

Q. A person who loses the power of speech, and is paralyzed on the right side—does that mean that the left part of his brain is affected?

A. Yes, and generally there are pathological alterations on that left side.

Mr. MONTAGNE: That is all.

Mr. CHICOTE:

Q. The organic attack or injury which takes place in a case of paralysis in the first degree, making the patient close his eyes and preventing his moving any of the muscles of the face,—would that indicate, in medical hypotheses, that the injury is on the left side?

Mr. MONTAGNE: I object to the question, because it assumes facts that have not been the subject of previous answers.

276 The COURT: I think it is immaterial.

Mr. CHICOTE: That is all.

The COURT: The hearing is adjourned until tomorrow at nine o'clock a. m.

I certify to the correctness of the above notes, taken by me.

(Signed) JULIO JIMENEZ JEREZ,
Official Stenographer.

277 JUNE 5, 1902.

Seventh Session.

Testimony of Bruno Vilamar,

who, having been duly sworn according to law, testified that his name was Bruno Vilamar, residing at No. 126 Calle Concepcion.

Questions by Mr. CHICOTE:

Q. Have you ever lived in Barcelona, Spain?

A. Yes, sir, all my life, with the exception of the eight years I have been in this country.

Q. Did you know or did you ever meet Dr. Bartolome Robert?

A. Yes, sir.

Q. Were you an intimate friend of his?

A. An intimate friend, no. I once suffered from an intestinal catarrh for a long time, and he prescribed for me many times. Then, I am a sculptor by profession; he was very fond of sculpture, and he often gave me orders for work of that kind.

Q. Are you acquainted with the signature and handwriting of Dr. Robert?

A. I could recognize his signature if I saw it. He had two different styles of signature: sometimes he would only sign "Robert," but in the case of an important document he would sign his full name, "Bartolome Robert."

Q. I will show you these documents (exhibiting to the witness signed certificate by Dr. Robert, and marked Exhibit —). Do you recognize this as the handwriting and signature of Dr. Bartolome Robert.

Mr. MONTAGNE. I object to the question, as incompetent and immaterial, and as having no bearing on the case.

278 The COURT: You have already identified the signature of Dr. Robert by another witness, and it is not necessary to have it identified again. The court considers that further proof as to the signature of the deceased Dr. Robert is not necessary, and the witness is not bound to answer.

Mr. CHICOTE: That is all.

279 *Testimony of Dr. Altman,*

who, having been duly sworn according to law, testified that his name was Dr. Altman, residing at No. 147 Calle Nueva, Ermita, Manila, and a doctor in medicine and surgery, by profession.

Questions by Mr. CHICOTE:

Q. In case No. 13 against Francisco Enriquez, for making a false statement in a public document, instituted in the Court of First Instance of the District of Binondo, you certified as to the state of illness of Antonio Enriquez?

Mr. MONTAGNE: I object to the question, as incompetent and irrelevant and as being hearsay.

The COURT: I cannot allow the question. You may ask the witness as to the physical condition of the deceased Antonio Enriquez.

Mr. MONTAGNE: Did you know Antonio Enriquez in his lifetime?

A. No, sir.

The COURT (addressing Mr. Chicote): You can put to the witness hypothetical questions, but cannot refer to previous testimony, for that is leading.

Mr. CHICOTE:

Q. Taking into consideration, for the purpose of determining the condition of the patient, the diversity of opinion of those who claim to have been eye-witnesses, from whose testimony it appears, on the one hand, that the patient was absolutely physically and mentally incapacitated, and, on the other hand, that the patient was not so absolutely physically and mentally incapacitated; that some of the witnesses testified that the patient could not walk or make

280 any movement at all, except such movements as he could make with his left hand, while other witnesses insist that the patient could stand on his feet and could walk alone, leaning on a cane or on the shoulder of a girl; and that according to yet other witnesses Antonio Enriquez could take long walks, for a period of two hours, climb up the stairs to the second floor and, in a word, go out in the morning and in the evening, driving, for two hours more or less; that, according to the testimony, Antonio Enriquez, while in Paris, and having been left alone, he fell down, fracturing his femur: if you knew that such a patient has written letters signed by him, although not written by him but by another person at his

dictation, and that his signature is the authentic signature of Antonio Enriquez; if you knew further that in addition to those letters he dictated other letters to his own children; and supposing that such a patient a few months after he was taken sick had a conversation with one of the witnesses, in which conversation he pronounced words more or less incoherently: now, if you had all that data before you, could you tell us something about the mental condition of that patient, bearing in mind that he only suffered from an attack of hemiplegia on the right side, according to the testimony of the persons who claimed to have been eye-witnesses?

Mr. MONTAGNE: I object to the question—first, because it is incomprehensible; second, it is immaterial; third, it is incompetent; fourth, because it calls the attention of the expert to matters which are not of a professional nature; and fifth, because it assumes that the expert can testify, and has a right to testify, upon the weight of the evidence,
—a right which pertains exclusively to the Court; and finally,
281 because the competency of the witness who testifies has not been first established.

The COURT: The witness may answer.

Mr. MONTAGNE: Exception.

A. Counsel has stated that the witnesses testified so-and-so, and in other places he has said, "supposing" so-and-so: now, am I going to answer according to my own judgment or according to the testimony of the witnesses?

Q. In accordance with the testimony of the witnesses.

A. Then my answer will conform to the testimony of the witnesses. If there were a number of witnesses talking about a person, and some of them would say one thing and others would say another, I would not be able to form any opinion at all. The only thing that has been said is that he could write letters, and if he could write letters the patient could not have been sick; if, according to the others, he was paralyzed, we cannot make them agree; but if it has been established that the person was sick, I believe that such evidence as the letters of which you spoke would convince me more than the testimony of the witnesses.

Mr. MONTAGNE: I move that the witness's answer be stricken from the record, because he has testified as to the weight of the evidence.

The COURT (addressing the witness:) I do not want your opinion as to the weight of the evidence; I simply want your opinion as a doctor as to the intelligence of a person in the condition mentioned.

WITNESS: I cannot find anything in the question that can make my answer conform to the drgree of intelligence of the per-
282 son. In view of the testimony of the witnesses, so conflicting, no physician could express an opinion.

Q. The state of hemiplegia necessarily carries with it the intellectual capacity of the patient, does it not?

Mr. MONTAGNE: I object to the question, as incompetent and im-

material, and because it assumes something that has not been proven and that is not in the record.

The COURT: Objection overruled.

Mr. MONTAGNE: Exception.

A. By hemiplegia is understood the paralysis of half of the body, and this paralysis of half of the body may be due to many extra-cerebral causes; if the cerebrum and the cerebellum are not affected, the intellect of the person need not necessarily be affected.

Q. This state of hemiplegia, in the ordinary course of things, is, in your opinion, a disease in which the patient preserves the same condition, without alteration, during a given number of months, and even for two years?

Mr. MONTAGNE: I object to the question, for the same reasons as previously stated.

The COURT: Objection overruled.

Mr. MONTAGNE: Exception.

A. A hemiplegia, no matter what the cause may be, must get worse, when it is actual hemiplegia; otherwise, the condition of the patient improves. The so-called chronic form of hemiplegia aggravates the paralysis, and in a state of contraction of the muscles there is sometimes atrophy of the same. It does not aggravate the paralysis, but in a general condition there may be some change.

Q. Does hemiplegia necessarily carry with it aphasia?

283 A. Not necessarily—not at all.

Q. Do you think that a person who can express his desires, without uttering a word, to the persons around him, and while in this state of hemiplegia can express his wishes to the persons about him, making positive or negative signs, and who apparently can hear and understand what is said to him,—do you think that a person suffering from such hemiplegia is mentally incapable?

Mr. MONTAGNE: I object to the question, for the same reasons as before stated.

The COURT: Objection overruled.

Mr. MONTAGNE: Exception.

A. It is rather difficult to give a positive answer. There might and might not be mental incapacity: It might be in a lesser or greater degree; that is something difficult to answer, because it all depends upon the intensity of the hemiplegia and on the cause thereof. The hemiplegia may be due to a tumor, or some other cause, and it is therefore impossible for me to give you a definite answer.

Mr. CHICOTE: That is all.

Questions by Mr. MONTAGNE:

Q. You say that you are a doctor of medicine, do you not?

A. Yes, sir.

Q. Do you practice in Manila?

A. Yes, sir.

Q. Where have you your office?

A. I have no open office.

Q. Have you no office?
A. No, sir.
284 Q. Did you formerly have an office in Manila?
A. Yes, sir.
Q. Where?
A. I was an employee of the Board of Health at San Lazaro.
Q. How long were you employed with the Board of Health?
A. Four or five months.
Q. Is is not true that it was a temporary appointment?
A. I was licensed after passing the Civil Service examination, and after passing the examination I received my appointment as doctor for the Board of Health.
Q. When did you receive your appointment?
A. I do not remember the date, but I could very easily find out.
Q. Is it not true that you have not a certificate issued by any legitimate body of the city of Manila authorizing you to practice your profession?
A. I am registered here.
Q. Have you a certificate?
A. No, sir.
Q. Who gave you a license to practice?
A. I have said that I have no license, but I am registered.
Q. But have you a certificate?
A. No, sir.
Q. Is it not true that the authorities refused to issue you a license to practice your profession?
A. Yes, sir. After I passed the Civil Service examination I was employed at San Lazaro until the latter part of February, and a law having been passed whereby a person who desired to practice had to take an examination, I having been employed in the Govern-
285 ment until the last day of February was told that I had to take a new examination, which I refused to do; but I have finally registered.
Q. But is it not true that they refused to issue you a license to practice in Manila?
A. I am authorized to practice, although the license has not been issued.
Q. Who authorized you to practice?
A. The Board of Health. I have already explained the circumstances.
Q. Have you a certificate showing that you are a doctor?
A. Yes, sir.
Q. Where is it?
A. The doctor, as well as the attorney, does not carry such a certificate in his pocket.
Q. Have you it at home, then?
A. No, sir.
Q. Have you it in Manila?
A. No, sir, I haven't it here.
Q. Can you bring us a duplicate of the certificate of some known college of medicine, to prove that you are a physician?

A. Yes, sir.

Q. When can you bring it?

A. It will take one or two months. I sent my diploma to the United States. I had it there, and while in the army it was of some use to me; but I sent it back to America, and when I come back here I will bring it with me. I could get you something that would be just as good as a duplicate, within ten minutes.

Q. Is it not true that you were appointed an assistant in
286 the Board of Health in the belief that you would later on exhibit your medical license, and that you having failed to produce the same they refused to give you a certificate authorizing you to practice?

A. No, it is not true. On the contrary, I passed the Civil Service examination as a doctor and have been registered in the Board of Health three times, and I have my appointment duly signed.

Q. Where is that appointment?

A. You mean as a doctor of the Board of Health, after passing the examination?

Q. Why did you cease to be an employee of the Board of Health?

A. I voluntarily resigned.

Q. Is it not true that you were compelled to resign because you failed to produce your certificate?

A. No, sir; everybody in Manila knows that that is not true.

Q. Then, if the members of the Board of Health should testify to the contrary you would have lied?

A. Yes, but I am sure that none of them would testify to such a thing—that I had to resign because I was unable to produce a duplicate of my license.

Q. Is it not true that you were an army surgeon?

A. Yes, sir; I was registered in the army, but before I entered the army I was a graduate of a reputable college of medicine in the United States. It appears in the records of Bilibid Prison, where I was prison physician. A doctor was very seldom assigned to such duty, and I was in charge of the hospital and acted as a doctor at the same time.

Q. Is it not true that you were what they call "hospital sur-
287 geon"?

A. Yes, sir, my rank was such, but my position as a doctor was that of First Lieutenant, acting as Captain.

Q. Is it not true that the Prison Doctor was Mr. Xeres Burgos?

A. No, sir; that is something different. Bilibid had two Departments—one for the military and another for the civil prisoners. I being an army man was in charge of all the military prisoners, with whom Dr. Burgos had absolutely nothing to do, but only with the civil prisoners.

Q. When you resigned your position, did you also resign your position in Bilibid Prison?

Q. My enlistment in the army expired, and they gave me my discharge.

Q. Is it not true you were dismissed from the service as hospital

surgeon because you were accused of having attempted to rape a girl under your charge?

A. No, sir, it is not true; that is a lie.

The COURT: You nee- not answer such questions unless you wish to. Mr. Montagne, who has been in the States, and also here for a long time, and has had something to do with soldiers and officers, should know that when a soldier is discharged from the army it is not to be said that he has been dismissed.

Mr. MONTAGNE:

Q. Are you now, and were you, a friend of Francisco Enriquez?
A. Yes, sir.
Q. Intimate friend?
A. Yes, sir.
Q. Have you rendered any services to him?
288 A. What other doctors call professional services.
Q. Have you any interest in this case?
A. None whatever.
Q. Have you any interest in the result of this case?
A. Human interest, that is all.
Q. Have you not any pecuniary interest in this case?
A. No, sir. I suppose that the Court will pay me my per diem.
Q. And that is all the interest you have in this case?
A. That is all.
Q. Have you ever attempted to compromise this case?
A. If you would make yourself clearer I would answer.

The COURT: Have you done anything to avoid this litigation,—that is to say, for the settlement of the dispute between the parties?

A. Yes, sir.

Mr. MONTAGNE:

Q. Do you know where my office is?
A. Yes, sir.
Q. On the corner of Cabildo and Santo Tomás?
A. Yes, sir.
Q. A few days—or about a week ago,—the date I do not remember, did you not come to my office and have a conversation with me, in which you substantially asked that this matter be settled in some way or other?

A. I had a conversation. The conversation I had with Mr. Montagne was no more than a friendly one; talking about this case, no. I did not know until yesterday that I had been cited as a witness by the Court. Talking generally about the matter of the Enri-
289 quez brothers, my opinion was that he had been deceived by his clients and that I could show him a paper which, after reading, would cause him to change his mind. I did not think that he was so blind. Knowing the case, it seemed to me very clear, and I said to him, "If you wish, I can very easily give you that paper, and then you can judge for yourself what has happened."

Q. Yes, sir, that conversation took place in my office. Do you know where I live?

A. Yes, I was there, too.

Q. That very same night, or the following night, did you not come to see me at my house?

A. Yes, sir.

Q. Is it not true that on that night that you came to see me you brought some papers with you?

A. Yes, sir. During the conversation which took place in the office you acceded to seeing some of the papers. I told you about the existence of certain instruments, which you claimed did not exist, and I took them to your house in order to show them to you, and I said, "You did not know that such things existed, did you?"

Q. It is true that on that occasion I saw the documents, but I told you that they would not in any way make me change my mind.

A. Yes, sir, you thanked me for the documents and fixed your attention on one of them. You told me that you had not known that such documents existed, but that in any event you would maintain your own opinion.

Q. Is it not true that that document has been introduced in evidence here, purporting to be a conveyance, executed some
290 four days before the deceased Antonio Enriquez left the Islands, in favor of Carmen de la Cavada, at the house on Calle David?

A. No, sir, that is not the document. If I remember correctly, it was a document showing the receipt of seven thousand pesos. I do not know, but the document referred to seven thousand pesos for the sale of a part interest in the estate.

Q. After you had that preliminary conversation, and while you were talking to me with reference to the matter for some time—I want you to state "Yes" or "No" to this question—, Did you not tell me then that you were interested in settling this matter for Francisco Enriquez, and that you had been authorized by him to offer me ten thousand pesos if I dropped the case, and after hesitating a moment I told you that I could not deal with you in such a case unless you would bring to me on the following day a written authority from Francisco Enriquez empowering you to treat with me about this matter?

A. What you have said is not quite correct, but I can tell you in substance what happened. Here, my position is rather peculiar, because I may have to speak of things which took place between Mr. Montagne and my self, and where there were no witnesses,—certain things which are disagreeable; but I would like to know whether I may tell something that could not be proven, in answer to your question.

The COURT: You need not answer, unless you wish to. If you wish, you may, but you need not answer.

A. But if I repeated a conversation and had to say something objectionable, for some reason or other, would it be libel, notwithstanding the fact that I am testifying as a witness?

291 The COURT: There is no question of libel. You may answer. You may repeat the conversation between you and Mr.

Montagne, if you wish, but you need not repeat it unless you wish to do so.

A. I wish to answer. I went to Mr. Montagne's house, and after showing him those papers we talked about the matter of Francisco Enriquez and about other things in general. The conversation was interrupted by other minor matters. I finally said to Mr. Montagne, "Here, why do you not settle this matter?" and Mr. Montagne answered, " I don't want to; I cannot; I am going to delay it for three more years, if I can." I gave him to understand that Francisco Enriquez was my friend, that I was a friend of the family and that I regretted what had occurred, these people being constantly in litigation,—adding that for the sake of his health Don Francisco would not mind conceding something, but that the matter should be finally settled. He said, "Yes, let us see what we can do." He asked me whether I had the necessary authority, and if I remember correctly I told him that I had not, but that I wanted to know whether we could do something in this matter, and that if things were satisfactory I would speak to Francisco Enriquez. The conversation lasted until ten o'clock. He took me out of the room, and we sat in the corridor, where there was nobody else present. Mr. Montagne said, "Mr. Lamme does not understand; Mr. Dominguez will leave here in a few days; that can be settled; if Francisco Enriquez pays me fifteen thousand pesos I will settle the matter," and I told him that there was nothing wrong in the proposition. Mr. Montagne then said,
292 "All right; you go and see Don Francisco and see what he thinks of it, but this matter must remain between you and me; I do not want anybody else," adding, "Do not be in a hurry; the question must be directly between you and me." I did not push the matter, because I did not want Mr. Enriquez to think either that I was keeping the money or that Mr. Montagne did not come to an agreement.

Q. Now, at that conversation, while you and I were sitting in the corridor, where we remained for a long time,—during that conversation did you not tell me, positively, that you were authorized by Francisco to offer me ten thousand pesos to settle the matter, and then, after hesitating for a moment, did I tell you that I would not do it, by any means?

A. No, and I have witnesses that you did not.

Q. I would have dealt with you with reference to such a matter if you had shown me some written authority from Francisco Enriquez, but you told me that you had no such authority in writing, because you did not care to bother him, this being such a delicate matter, but that you had been verbally authorized by him. Then I told you that I would perhaps be prepared to settle this matter if they paid ten thousand pesos, but that before I could take any action on this matter and compromise this suit I had to have a written authority from Don Francisco. Is it not true that you immediately left?

A. I did leave—that is about the only truth that you have uttered, that I left.

Q. Did you not come back to my house the next day, at the same time?

A. Yes, sir, in the presence of Mr. Partier.

293 Q. Did you not come back to my house that very same night with Mr. Partier?

A. Yes, sir, I went with him.

Q. And afterwards Mr. Partier left and we remained alone?

A. Yes, sir.

Q. And that second evening did you not again talk to me about this matter, and when I asked you whether you had a written authority from Francisco Enriquez you told me that he had refused to give you such authority, and I told you that I would not discuss that matter with you any further, under the circumstances,—is that not true?

A. No. You have mixed up very nicely certain things which are true with other things which are not. It is true that a conversation took place, as I have stated a moment ago; it is not true that you said a word about authority; and you know what I have told you many times,—Give me the basis and I will speak to them, but I could not talk to them unless I had something tangible." It is true that I have mentioned this matter to Francisco. I left that night with the understanding that if I paid you that sum you would be the first one to throw stones in the way of this suit. It is true that two days later I went to your house with Mr. Partier; and when I entered your house, accompanied by Mr. Partier, other persons being present, in order to give you to understand that I had not called for a mere visit I told you, "You have a carromatta that you want to sell: I have come to see it; if you wish, let us go upstairs and talk the matter over."

I again talked to you about this matter, and you told me this

294 and that, but you never refused, and you cannot tell me, Mr. Montagne, anything else, because it would be a lie. What interest can I have in this case? The trouble is that you are afraid of my telling the truth.

Q. Is it not true that on the secone evening that you called to see me I told you, at the end of our conversation, I told you that in that why I could not deal with you any more with reference to the matter, and that I told you, "If hereafter you do not bring what I have asked for I do not want you to talk to me any more about this matter"? At that last conversation, in which I told you that I did not want you to talk to me any more about this matter, is it not true that I did tell you that because you admitted to me that you had no written authority from Francisco Enriquez?

A. No, sir, it is not true that you mentioned anything about written authority. The reason why this matter was not settled was because you wanted me to deliver the money to you, and that I would not do. You did not want to meet Mr. Chicote as an interested party in this settlement, and when you asked me whether Mr. Chicote had anything to do with this you turned pale and said, "You must settle this: I will level the ground; you meet, and arrange the whole thing."

Q. Is it not true that you told me that you could get the necessary authority from Mr. Chicote, and I told you that I did not wany any authority from Mr. Chicote, but from Francisco Enriquez himself?

A. No, sir, you never mentioned the words "written authority," and you know that you never did.

Q. Do you know whether or not medicine is an exact science?

295 A. No, sir, it is not considered an exact science like mathematics.

Q. Is it not true that medical science, in many of its branches, is simply experimental in nature?

A. The practice of medicine?

Q. Yes, sir.

A. No, sir. The practice of medicine has been arrived at by experiments, but is not experimental, being based upon previous experiments.

Q. Do you mean to say that in practice it is exact?

A. No. The word cannot be applied to medicine, but only to the exact sciences.

Q. Is it not true that medicine generally is now an experimental science?

A. I would like to have a good definition of the word "experimental."

Q. I mean by that that there is not absolute security in the science.

A. Absolute security in the science, no, sir.

Q. Is it not true that medical science teaches that no such thing exists as the total loss of memory and of the human mind?

A. It is not true that medical science teaches any such thing as the total loss of the memory and intellect. Medical science teaches that there may exist a partial loss of memory or of the intellect.

Q. Do you mean to say that medical science recognizes some general cases in which the total loss of memory and intelligence is perpetual and absolutely lifelong?

296 A. I do not know whether in medical science there are any cases in which the loss of memory and of the intelligence is complete and perpetual.

Q. Totally and absolutely—do you conceive of a case in which that absolute loss of memory and intelligence may exist?

A. I think it must be said that it does not exist, because, although there are many persons who are absolutely idiotic, we cannot know that in that case, or in a case of insanity, there is not a little memory.

Q. Is it not true that generally insane persons, or those that are suffering from some mental infirmity, appear sometimes to be rational persons?

A. Yes. Those who suffer from insanity may appear to a person who is not a physician, or who has not examined them, carefully, as rational persons.

Q. Is it not true that in insane asylums you can see persons who are confined as insane but who are nevertheless engaged in occupations in which only rational persons can engage, although they suffer from some mental infirmity?

A. You contradict yourself in terms. There are no persons in insane asylums engaged in any work that should be performed by rational persons.

Q. Is it not true that in some insane asylums, generally persons

who suffer from mental infirmity are engaged in the work of rational persons, for instance, horticulture, gardening, bookkeeping, cooking, et cetera?

A. Yes, sir, some persons may be able to do that. It depends on the kind of insanity from which they suffer.

297 Q. Is it not true that this is very common in insane asylums?

A. It cannot be said that it is a common thing, because it all depends on the nature of the insanity. You may find an asylum in which they do mental work, but that depends on the kind of insanity. There are certain asylums for this purpose.

Q. Now, coming to the state of paralysis accompanied by the total loss of speech, is it not true that in that case the paralysis is an infirmity which causes a partial or total destruction of the mind?

A. No, sir, it is not true, because, in the first place, you use an expression such as "paralysis," which in medicine is the same as "fever." There are many kind- of paralysis. You have to specify There may be hemiplegia, monoplegia, paroplegia,—a large number of them. What ordinarily means speech, to a doctor means a different thing.

Q. Suppose a case where a person is suffering from a rupture in some part of his brain, as a consequence of which he has a hemorrhage, and that that person is about sixty years of age and who has shortly before lost a beloved member of his family, with whom he had lived and by whom he had had children and who had been his companion during his lifetime—do you think that such a rupture would bring about an entire paralysis of the right side?

A. Please tell me in what part of the body did the rupture occur?

A. In the cerebrum.

A. If you do not specify, I cannot answer.

Q. Does any rupture of the cerebrum bring about paralysis?

298 A. Yes, sir, of a vein or of an artery.

Q. As a result of that rupture the person suffered a paralysis of the right side. This person was of an advanced age, and the paralysis was accompanied by the total or partial loss of his speech; such person habitually used the right hand and not the left: could not such a disease affect his intellect?

A. That is a very difficult question to answer, and the attorney could propound to me questions that no doctor would be able to answer; but I think that in that case such would be the result.

Q. Would it be strange that it would affect his intellect?

A. No, sir.

Q. Is it not true that persons of advanced age are more susceptible to diseases of this nature?

A. Yes, it is true. Both the very young and the very old have the same susceptibility—children, as well as persons of advanced age, due to the weakness of the tissues.

Q. Is it not true that medical science teaches that with a patient of this kind the mind is the first part affected?

A. What part of the mind?

A. His memory, his mind, I mean that the first organ affected is his mind.

A. Memory is located on the parietal lobule of the left side, and if the rupture should affect this center there is no doubt that his mind would be affected; but if at the same time the rupture or the hemorrhage was at some other point that part would not be as much affected as the other.

Q. Do you know of a work on medicine entitled "A Treat-
299 ise on Mental diseases"?

A. No. That is a special book; but I have other books which refer to that.

Q. Is it not true that Luis is recognized as one of the eminent authors on this subject?

A. Yes, and, besides him, Charcot, Brown-Sequard, and others.

Q. Is it not true that on Page 414 it says that in such cases the first organ of sense of the patient affected, considering his age, is that of his mind or memory?

A. I do not know whether it is true or not. If you have the book you ought to know.

Q. And if Luis had said so, would you not consider his opinion as an authoritative one?

A. I will tell you. Experts like myself would not use the word "mind." I do not think that they would use the word "thought"—not even Charcot, Kraf, Oslae, who are medical authorities on mental diseases.

Q. What do you think would be the proper word?

A. They will agree that in such cases the five senses may be destroyed one as soon as the other.

Q. What word do you think Luis would use instead of the word "thought"?

A. "The faculty of using the intelligence", for instance, for that refers to hearing, color, smell and sight.

Q. But does medical science teach us that persons of an advanced age, for instance sixty years, can generally, although not invariably, suffer from mental weakness as a result of paralysis?

A. No, sir. Any person who is a doctor can readily under-
300 stand that no rule can be laid down as to mental weakness, because that is something relative to the mental condition of the patient, as compared with his previous condition.

Q. Is it not true that medical science teaches us that a person of sixty years of age, or probably younger, after an attack of paralysis due to a cerebral hemorrhage, brought about by rupture of the cerebrum, generally, although not invariably, is what is called "feeble-minded," if you do not wish to say "mental weakness"?

A. It would give me great pleasure to answer everything possible. A rupture of the cerebrum is something very grave, something that no doctor can understand, for a rupture of the cerebrum may be due to a rupture of an artery of the brain or of some vein. It might be also brought about by a blow on the head, which might cause a rupture of the cerebrum as well as of the brain proper. It all depends on the gravity of the injury, which may make the patient more or

less feeble-minded. I wish to answer with as much accuracy as possible.

Q. Do you know anything about senile insanity?
A. Yes, sir; something.
Q. Have you ever attended patients suffering from senility?
A. No, sir. You mean to say insane people, do you not? I have treated persons who were absolutely insane.
Q. Where?
A. Here in Manila, some cases.
Q. Never outside of Manila?
A. Yes, sir, in the army itself.

Mr. MONTAGNE: That is all.

301 *Testimony of Venancio Ruiz,*

Who, having been duly sworn according to law, testified as follows:

Questions by Mr. CHICOTE:

Q. Please state your name, occupation and residence?
A. Venancio Ruiz; Manufacturer; No. 85 Arlegui, Quiapo.

Mr. MONTAGNE:

Q. How many years have you been living in the Philippines?
A. More than forty years.
Q. Do you remember having testified as a witness in case numbered twenty-o*b*e, against Francisco Enriquez for making a false statement in a public document, instituted in the Court of First Instance of Binondo?
A. Yes, sir.
Q. Did you know Antonio Enriquez in the year 1883?
A. Yes, I knew him long before that date.
Q. Were you then a procurator of the Courts of Justice?
A. Yes, sir.
Q. Did you, as a Procurator, have anything to do with any litigation to which Antonio Enriquez was a party?
A. I had a case for the recovery of a certain amount of money, in which Antonio Enriquez was interested. I do not remember the amount claimed, but before he went to Spain, and as I represented José Roman, Don Antonio Enriquez asked me to come to his house * * *

Mr. MONTAGNE: I object to the answer, as not being responsive to the question. The question is very simple.

Mr. CHICOTE: You can tell me whether you spoke to Antonio Enriquez, but can you tell me what you told him or what he told you, and whether or not you had a conversation with him. You need not say what the conversation was about?

302 A. Yes, sir. He asked me what I wanted, and I told him, and he said, "Well, I want to settle the payment of this claim."

Mr. MONTAGNE: I object to the answer, and ask that it be stricken from the record.

161

The COURT: The law says that you can testify that you had a conversation with the deceased, but that you can say nothing about the subject of the conversation, but simply that you had a conversation, for five minutes or for an hour or so.

WITNESS: I had a conversation with him. That is to say, he asked me questions, for about fifteen minutes, while in his house, and we understood each other perfectly.

Q. Do you remember whether you went to see him of your own accord, or whether he sent for you?

A. He sent for me in connection with this matter, and I went to see him.

Q. Do you know what took place during the conversation between you and him—I mean, what words passed between you and him, and what he told you during that conversation?

Mr. MONTAGNE: I object to the question, as insufficient, and because no foundation has been laid therefor.

The COURT: Objection sustained.

Q. Did you speak with Antonio Enriquez at that time?

A. Yes, sir.

Q. Did he pronounce any words which could be understood?

Mr. MONTAGNE: I object, for the reason that no foundation has been laid for the question.

The COURT: Objection overruled.

303 Mr. MONTAGNE: Exception.

A. Yes, sir.

Q. At the time that you talked to Antonio Enriquez, was he lying in bed, or was he in any other part of his house?

A. No, he was walking up and down in one of the rooms of the house. I do not remember whether it was in the parlor or in the hallway. He was walking with a cane. When I arrived he got up and we talked without any difficulty, and after we finished the conversation I did not see him again.

Q. At that conversation with Antonio Enriquez, did you notice anything strange or unusual in him?

A. Yes, he stammered somewhat in his speech, and seemed to be suffering on his right side, because he walked with some difficulty.

Q. Did Antonio Enriquez pay to you the amount of the claim on that date?

A. No. On the following day he sent me the money, through his attorney, Juan Antonio Gomez, to my house. I do not remember the amount, but I think it was four thousand pesos.

Q. Do you remember the approximate date on which that conversation took place?

A. In the latter part of February. I think it was early in March of 1883, a few days before he went to Spain with his brother. I later learned by the newspapers that he had left for Spain two or three days subsequent to that time.

Mr. CHICOTE: That is all.

Questions by Mr. MONTAGNE:

—. You represented Francisco Enriquez in several suits, did you not?

A. I was Procurator for the estate.

Q. In behalf of Francisco Enriquez?

304 A. In behalf of the estate.

Q. Who retained you?

A. The executor, who was the only one who could have employed me.

Q. Who was the executor?

A. Francisco Enriquez, the only one empowered to do so.

Q. Did you have any power of attorney from Francisco Enriquez to represent him?

A. Yes, I did, as executor of the estate.

Q. You mean after the death of Antonio Enriquez?

A. Naturally so; it must have been after the death of Antonio Enriquez, because otherwise there could have been no estate.

Q. But you were employed by Francisco Enriquez, were you not?

A. I was employed by the executor of the estate, Francisco Enriquez. Personally, I never had anything to do with Francisco Enriquez.

Q. The power or powers of attorney which you may have had, in order to intervene in all these matters, was given you by Francisco Enriquez in his capacity of executor, was or were they not?

A. Yes, in his capacity of executor.

Q. Did you at that time receive any amount of money from Antonio Enriquez and did you give any receipt for it to Juan Antonio Gomez?

A. Yes. He brought the money to my house.

Q. At that time was there any action pending in the court with reference to that matter?

A. Yes. I filed a complaint on behalf of José Roman, to recover that amount of money.

305 Q. During the pendency of that action, was it then that you received the money?

A. Yes, the day after I talked to Antonio Enriquez.

Q. Did you obtain a judgment upon that complaint?

A. No, because immediately after the filing of the complaint he paid the amount of the claim, and the matter was finally settled, the promissory note being returned to him.

Q. Approximately how long after the filing of the complaint was it that you were paid the money?

A. A few days later; because, as soon as he was notified, Juan Antonio Gomez came to my house on the following day, and paid me the money.

Q. In what court was that complaint filed?

A. I do not remember.

Q. Was it in the Court of First Instance?

A. In the Court of First Instance, for the claim was for a large amount.

Q. And that conversation you say you had with Antonio Enriquez—did that take place after the filing of the complaint?

A. Of course. It could not have been before the filing of the complaint, because otherwise he could not have had notice of the same.

Q. Did you have that conversation with Antonio Enriquez before or after the money was paid?

A. I have already said that the day after I talked to Antonio Enriquez an attorney came to my house and paid me the amount of my claim, and the matter was finally settled.

Q. Juan Antonio Gomez was at that time the attorney for Antonio Enriquez, was he not?

306 A. Yes.

Q. You say that the complaint in question was filed by you in behalf of José Roman against Antonio Enriquez, for a sum of money, and that the conversation took place some time in February, 1883, do you not?

A. I have said before, and I repeat now, that I am not sure whether it was early in March or in the latter part of February of that year.

Q. How do you remember that it was in 1883 and not in 1882?

A. It was in February, 1883, or early in March of that year.

Q. And how do you know that it was in 1883 and not in 1882?

A. Because that was a personal matter of mine.

Q. Do you remember the date and year of all your professional transactions?

A. The date, no.

Q. And the year?

A. Yes.

Q. And of other personal matters?

A. Of some, yes; of others, no.

Q. But you are certain that that conversation did not take place in 1882, are you?

A. I have said, and now repeat, that it took place in 1883, in the latter part of February or early in the month of March.

Q. But you have no recollection of any conversation with him in the year 1882, have you?

A. No.

Q. You are certain that that conversation did not take place in the year 1882, but in 1883?

A. In the year 1883.

307 Q. When did you speak to Francisco Enriquez for the first time with reference to your employment as a Procurator?

A. Long after his father's death.

Q. Do you remember the date?

A. No.

Q. Do you remember the month?

A. No.

Q. Do you remember the day?

A. No.

Q. When was the first time that you appeared in court in behalf of Francisco Enriquez, as Procurator?

A. I do not remember.
Q. Do you remember the month?
A. Neither the month nor the year. I could remember the date if I had the record before me.
Q. Did you have under your charge the case instituted by José Roman?
A. No. That was a petition that he be summoned. It was an action upon a promissory note.
Q. And is the record of that action in the Court of First Instance, or have you it in your possession?
A. I do not think it is in the court. That was simply a petition that summons be issued to him, but as we were paid the amount claimed the promissory note was returned and the matter was definitely settled.

Mr. MONTAGNE: That is all.

308 *Testimony of Eustaquio Villafranca de Mendoza.*

Who, having been duly sworn according to law, testified that his name was Eustaquio Vallafranca de Mendoza, residing at No. 67 Calle Herran.

Questions by Mr. CHICOTE:

Q. Were you a notary for the city of Manila in the year 1884?
A. Yes, sir.
Q. Do you remember whether there was executed before you a public instrument with reference to the sale of a house on the Riverita, between Victoriano Reyes as vendor and Carmen de la Cavada de Enriquez as vendee?
A. It may be that such an instrument was executed, but I cannot say positively unless I see the instrument.
Q. (Exhibiting instrument to witness.) Is this the instrument executed before you and referred to in my previous question?
A. Yes, sir, this is a copy of the instrument.
Q. Was this instrument really executed by the persons therein mentioned.

Mr. MONTAGNE: I object to the question, because the instrument itself is the best evidence.
The COURT: Objection overruled.
Mr. MONTAGNE: Exception.

A. Yes, sir. The parties mentioned therein are the parties who executed the same.
Q. The instrument is absolute proof of everything contained in it, is it not?—That is to say, Victoriano Reyes solemnly declared
309 before you and before the witnesses that he had received prior to the sale the amount of two thousand five hundred pesos. Had you any data or information furnished by the parties at that time which would enable you to determine that such was the actual price agreed upon.

Mr. MONTAGNE: I object to the question, as incompetent and immaterial, having no bearing on this case.

The COURT: Objection overruled.

Mr. MONTAGNE: Exception.

A. I can only say that the signing of the instrument is the best proof that everything contained in it is true. I remember that in this case Carmen de la Cavada surrendered a receipt which, after the instrument was signed and after a conversation between the parties, was destroyed?

Q. Was the receipt destroyed in your presence?

A. They signed the deed in my presence, and they said that the receipt was not necessary, and as the instrument already showed the price and the payment of the same Victoriano Reyes said that the receipt was no longer necessary, and after a short conversation they destroyed it.

Q. Do you know who destroyed that receipt?

A. Carmen de la Cavada, in the presence of Victoriano Reyes, destroyed the receipt.

Q. Did you not pick up the pieces of that receipt, thus destroyed.

A. No. What for?

Q. Have you no paper or memorandum with reference to that?

A. No.

Q. Did you read that receipt?

310 A. No, I did not read it, but I know that it was a receipt for the purchase-price, showing that the money had been paid before the instrument was signed. I did not have to read it particularly, in view of Victoriano Reyes' admission that he had received the money.

Q. Was the receipt inserted in the instrument?

A. No.

Q. Was Victoriano Reyes present when Carmen de la Cavada told you that the receipt was for the payment of the purchase-price to Victoriano Reyes? Was Victoriano Reyes present when you were ordered to prepare the instrument?

A. Victoriano Reyes was there before and after the instrument was signed.

Mr. CHICOTE: That is all.

Questions by Mr. MONTAGNE:

Q. Were you once the clerk of Francisco Enriquez?

A. Yes.

Q. When?

A. I cannot say, exactly.

Q. Was it in 1880?

A. I cannot say positively. I have no recollection.

Q. How long were you his clerk?

A. While he was judge. I had been a clerk since 1889.

Q. Were you the clerk of Francisco Enriquez after the year 1889?

A. I did not enter upon the discharge of my duties until 1879, but

I cannot say when Francisco Enriquez was appointed judge and when he ceased to be such.

311 Q. Were you his clerk at that time?

A. Yes.

Q. Did you enter upon the discharge of your duties in 1879?

A. Yes.

Q. Was he appointed judge subsequent to 1879?

A. I think so. I was already a clerk, but I do not remember when he was appointed judge.

Q. Was Francisco Enriquez present when that instrument was executed?

A. Yes, sir; as the husband of Dona Carmen he had to be present, in order to give her his consent.

Q. How long before the actual execution of that instrument were you requested to prepare the same?

A. I do not remember exactly, but it must have been shortly before.

Q. A few days before?

A. Maybe one or two days before the actual execution.

Q. You drafted the instrument before it was signed, did you not?

A. Naturally so. I had to draft it before I could present it to the parties and see whether they were satisfied with it.

Q. Did you know Victoriano Reyes at that time?

A. Yes.

Q. How long had you know- him?

A. Long after I became a clerk.

Q. Who first ordered you to prepare that instrument?

A. I cannot say who first ordered me to prepare it, but undoubtedly it was the parties in interest.

Q. What did the persons who ordered that instrument prepared say to you?

312 A. They asked me to draft an instrument of sale of a house.

Q. Did they give you the description of the property?

A. Of course they did, and they delivered to me the title papers, so that I could get from them the metes and bounds of the property.

Q. Did that person tell you that Victoriano Reyes had theretofore been paid the purchase-price?

A. Yes, but that statement was not made in my presence; and that is the reason why it was so stated in the instrument signed by all the parties.

Q. You mean to say that before the instrument was signed, one or two days before, you were asked to draft the same, and that the same person who asked you to prepare the instrument told you that Victoriano Reyes had already received the purchase-price, do you not?

Mr. CHICOTE: I object to the question, because it has been propounded to the witness in such a peculiar manner that he may not know what to answer.

Mr. MONTAGNE:

Q. The person who asked you to prepare that instrument, one or

two days before it was actually signed, did that person tell you that Victoriano Reyes had received the purchase-price prior to that date?

A. The instrument itself shows that. When the instrument was executed Victoriano de los Reyes acknowledged that he had theretofore received the purchase-price, and it was so stated in the instrument.

Q. Can you not answer my question?

A. Of course, I cannot say positively whether it was the
313 vendor or the vendee.

Q. Did any person tell you before the execution of that instrument that Victoriano de los Reyes had already received the purchase-price of that property?

A. Yes, sir.

Mr. MONTAGNE: That is all.

314 *Testimony of Rafael Enriquez.*

Questions by Mr. CHICOTE:

Q. Does the witness promise under oath to tell the truth, the whole truth, and nothing but the truth, in accordance with his previous oath given in this case?

A. Yes, sir.

Q. Where did you live from the years 1882 to 1885?

A. In Paris.

Q. Were you ever in Barcelona, accidentally or otherwise, during that time?

A. Yes, sir, when I went to meet my father.

Q. Do you remember in what year you went to Barcelona, and approximately how long you stayed there?

A. A very short time. I have already so stated, in my previous declaration. When my father arrived I stayed there a short time. I was there temporarily, on account of my father's sickness. My sisters and I decided to take him to Paris, to see whether we could secure his complete recovery.

Q. Was that in 1883?

A. Yes, sir; in the month of May.

Q. Do you remember having written several letters from Paris to your brother Francisco, in the year 1883?

A. Yes, sir; only a few letters.

Q. Do you remember having written Francisco Enriquez a letter dated February 9, 1883?

A. After eighteen years I cannot exactly recollect the dates, and I cannot tell you; but I remember having written to him several times—a few letters.

315 Q. I will now show you this letter, and ask you whether you wrote it? This letter appears on page 29 of the record of Case No. 21, instituted against Francisco Enriquez in the Court of First Instance of Binondo, for making a false statement in a public instrument, a copy of which letter is also attached to the record in this case, marked Exhibit "7."

A. Yes, sir, that is my handwriting. It is mine.

Q. During your temporary stay in Barcelona, in the year 1883, do you remember having written a letter to your brother Francisco, dated March 14, 1883?

A. I have already said that I wrote him several letters. After twenty years I cannot recollect dates.

Q. I will now show you this letter, appearing on page 31 of the record of Case No. 21, instituted against Francisco Enriquez in the Court of First Instance of Binondo, for making a false statement in a public document, copy of which said letter is attached to the record in this case and marked Exhibit VIII. I will ask you to state whether you wrote it.

A. Yes.

Q. Do you remember having written a letter from Paris, dated February 9, 1883, addressed to your father (exhibiting to the witness a letter on Page 33 of the record of Case No. 21 of the Court of First Instance, a copy of which letter is attached to this record and marked Exhibit IX.)?

A. Yes, sir, that is my letter.

Q. Do you remember having written letters, dated Paris, July 1, 1883, and July 28, 1883, respectively, appearing on pages 35 and 37 of the record of the said cause No. 21 of the Court of First Instance of Binondo, copies of which said letters are attached
316 to the record of this case and marked Exhibits 10 and 11?

A. Yes, sir.

Q. During that period from July 1st to June 28th, 1883, were you living in Paris with your father?

A. Yes, sir. I could not leave him alone a single moment.

Q. I will show you a letter appearing on Page 41 of the said cause, dated September 30, 1883, addressed to Francisco Enriquez and signed "Anto." ("Antonio"), and I will ask you whether the handwriting and the signature are those of Antonio Enriquez, and whether the letter was signed with his own hand. (A copy of this letter is attached to the record and numbered 12.)?

A. The letter was written by me, and the signature was made by my father, I guiding his hand. I tried to imitate his handwriting as much as I could, but did not succeed very well. I wanted this to show my father's connection with the letter. I wanted my brother to see in the letter the expression of my father's will, as though he himself had written it. The letter is in my handwriting, and the signature was made by my father, assisted by me. Notwithstanding the fact that I am an artist, I was unable to imitate his handwriting when I made his signature. The whole letter was written by me, and the contents were inspired by me.

Mr. Chicote then read the letter dated February 9, 1883, a copy of which is attached to the record and marked Exhibit "7."

Mr. Montagne stated that in order to save time he would like to cross-examine the witness after the reading of the letter.

317 The COURT: There is no objection.

Questions by Mr. MONTAGNE: The date on which you wrote this letter was February 9, 1883. Did you have knowledge then of your father's illness?

WITNESS: Nothing except what I learned from my brother, in which he said that he had been for about a month and fifteen days on the verge of death, and that notwithstanding the fact that two months had already elapsed he had not recovered his speech. I then wrote to him and answered his letters.

Q. That letter and the answer to that letter are attached to the record. The letter bears date of December 30, 1882, does it not?

A. Maybe.

Q. Did you have any knowledge as to your father's sickness other than the letters which you received from your brother Francisco in the year 1882?

A. Yes. In those letters he told me in detail about my father's sickness, saying that he had been practically dead for fifteen days.

Q. But you had no personal knowledge as to your father's condition, did you?

A. No, sir, except from letters I received.

Q. Have you anything more to say with regard to these letters?

A. No, except that under those circumstances, which would move a stone to tears, I was the object of the vilest epithets, until they finally stopped sending me any more money. * * *

Mr. MONTAGNE: That has nothing to do with the case.

Mr. Chicote then read a letter, dated May 14, 1883, at-
318 tached to this record and marked Exhibit No. 8. (The original is attached to the record of the case numbered 21, instituted against Francisco Enriquez in the Court of First Instance of Binondo.)

Mr. MONTAGNE: Mr. Rafael, have you heard read the letter identified by you and dated Barcelona, May 14, 1883?

WITNESS: Yes.

Q. Do you wish to make any explanation with regard to that letter, where it says, "I notice some improvement in father's appearance, and he is more agile now than when he first landed"?

A. The improvement I noticed in his general appearance was as follows: When I met him at the boat, and for a few days after his arrival, he looked haggard, but several days later it seemed to me that he had more life in him. He looked more serene, and seemed to have improved somewhat. On the boat I met him in a stateroom near the funnel. He made the trip in that stateroom, and he could not help being in that condition, particularly as he was sick. That is why I have said that his appearance had changed, and that I noticed more vigor and life in him; and it was natural, after he had recovered from the effects of such a long voyage. That is what I meant in that letter.

Q. Have you anything to say about that part of the letter which refers to the King's brother-in-law?

A. He was the uncle of King Alfonso, and with whom I was somewhat intimate. When I received that letter from my brother

I did not know the day on which my father would arrive. I went to Barcelona a few days before, and met this gentleman
319 at the hotel where he stopped. When we met, he said, "What are you doing here?" and I answered, "I have come to meet my father," and he said, "I have come here on business" and then he made certain promises to me, and we held a conversation substantially as stated in my letter.

Q. Here you say in your letter, "The king's brother-in-law was so kind that when he learned that my father was sick he came to visit him, and advised him before taking any further steps to consult a specialist, whom he could find only in Paris, as he knew by experience how ignorant the Spanish physicians were."

A. I am going to explain that. That gentleman generally did not associate with any one, but when he learned that father was there he expressed his desire to visit him. My father was in the parlor. He could not move; there was hardly any life in him. He desired to visit my father, and advised me what I should do with reference to his sickness. He visited my father, which was something exceptional with him, and in the presence of all advised us to take him to Paris, where the most eminent physicians were to be had. He said, "You have made the sacrifice of bringing your father in this condition from the Philippines, and Paris being so near you should take him there, for there is a great difference between the physicians here and the physicians in Paris; and as it is only a matter of a few hours you should take him there." He added that his father had suffered from the same infirmity, and that he knew by experience what the nature of that infirmity was. He told us that undoubtedly my father would improve somewhat; that
320 this disease had a well known termination, but he gave us to understand that in Paris he would be able to improve a little and prolong his life.

Q. Did that gentleman, who, you say, was the King's brother-in-law, speak to your father?

A. We made every possible effort to stand him on his feet and make him walk. He had to drag his right side. The only part which he could move at all was the left leg. Then I sat him on a chair. When I addressed my brother I naturally tried to imitate my father's voice, for from the first moment I realized my situation, knowing as I did that all my brothers and sisters and myself were subject to orders from the Philippines; but that was unbearable; so I decided to assume my father's authority, and it was under this authority that we did what we did, as we were all interested in his health and recovery of his mental faculties, so that he might again assume control of the family and guide the same as theretofore. I knew how much weight my opinion had with him in all matters relating to the family.

Q. Then you cannot say wh-ther or not that gentleman talked to your father on that occasion?

A. No, sir. All that my father did was to babble a few words.

Q. With reference to the contents of that letter, wherein you

said, "Father has decided to go to Paris the day after tomorrow, leaving here in the evening, to obtain the opinion of the prominent doctors of that city and to follow their prescriptions as to waters, et cetera. Thereafter we will come back and join the girls, whom we will leave in the meantime in the new house we have taken." Have you any explanation to give in regard to that?

321 A. I think I have already testified upon that point. My sister Carmen, the children and myself, having all decided, in view of my father's situation, that I should go with him to Paris, and that the girls should remain there—as I say, that is what we decided; for although we had to wait for orders and could not take any steps without the authority of my brother Francisco, I did not wait for instructions from him, because this was something that we had to do right away, and that is the reason why I said that my father had decided to do so; otherwise, we would have had to wait before taking any definite action. This being a question which affected my father's health, I decided not to await instructions from the Philippines.

Q. On that occasion, and with reference to that part of the letter which I have just read to you, did you inform your father of the action taken by you?

A. No, sir. The girls and myself agreed to *take* this matter over in his presence, as though he were in possession of all his senses.

Q. Did he indicate to you, by signs or movements, his opinion about what you were talking of?

A. We talked and explained what should be done, and told him that he should go, and he indicated his approval or disapproval by a motion of his hand.

Q. That decision that you referred to in your letter was taken by your father and communicated to you by signs?

A. We communicated to him by signs what we had decided to do.

Q. Did he make any signs to you?

322 A. He had no will-power; he was otherwise free.

Q. Have you anything else to say with reference to that letter?

A. Nothing else.

I certify to the correctness of the foregoing testimony.

(Signed) JULIO JIMENEZ JEREZ,
Official Stenographer.

323 JUNE 6, 1902.

Continuation of the testimony of RAFAEL ENRIQUEZ.

Question- by Mr. CHICOTE:

Mr. Chicote read the letters dated Paris, June 1st and June 28th, 1883, attached to the record of case numbered twenty-one instituted against Francisco Enriquez in the Court of First Instance of Binondo, for making a false statement in a public document, copies of which said letter are marked Exhibits 10 and 11 of the said case.

Mr. MONTAGNE: Mr. Rafael, do you remember the circumstances of having written to your brother Francisco on the 1st of June, 1883, from Paris, the letter which Mr. Chicote has just read?

A. Yes, sir.

Q. Do you remember the circumstance of your writing the second letter read by Mr. Chicote and dated Paris, 28th of June of the same year?

A. Yes, sir.

Q. In the letter written by you to Francisco Enriquez, from Paris, on the 1st of June, you said, "I am very glad we decided to do as were *we.e* told, for it seems that father has very much improved during the two days we have been here," adding, "He goes out for a walk every day with me, and with very little difficulty he climbs and descends the steps to the room on the second floor which we occupy." Can you explain to us how you came to write that letter, and the purpose of it?

A. I have stated from the beginning the circumstances in which I found my father at Barcelona. His condition compelled
324 me to take that attitude. The contents of the letter will explain to you the true relations which existed between my brother and myself. You will notice that I was always trying to get him some official position or other. That was my situation in Barcelona. On the one hand, my brothers and sisters would do nothing but what he would order from Manila, and on the other hand, when I met my father I noticed that he could not take action on any matter at all, on account of his mental condition, and realized that we all had to obey my brother's orders and the orders of my uncle, the Marquis of Villacastel, who had repeatedly told me to comply with the instructions of my brother Francisco, whom he said we should not antagonize, because he was the man with the money and could at any time refuse to make further remittances. I also noticed that in his letters he spoke as though my father could understand certain things, speaking of such matters and addressing the letters to him as though he could read them. I knew that such a thing was impossible for him to do, and that it was a mere delusion on the part of my brother. I nevertheless longed to see my father recover his mental faculties entire. I greatly resented being in this situation, considering my father's condition. I also deluded myself in this respect; I did not want to tell the truth as to my father's situation, and would write and make it appear that my father was well and understood everything. This I also did in the hope that some day he would recover entirely and then settle this question. I expected that they would blame me for all this, particularly being so far away. After all, I was nothing but a stranger there, and I
325 have already said that I wanted to make myself believe that my father was well, so as to avoid any disappointment on the part of my brother and thus prolong the matter, telling him that my father was much better than what he really was. I continued to write to him in this strain. This was substantially true, but I must admit that I somewhat exaggerated. My father improved very much while in Paris, and that is the reason why I told him in my

letter that he could climb up the steps to the second floor. In Paris, the houses have what is called a ground-floor, and right on top of that is the second floor, where we lived; so that he did not have to clim- up so many flights of stairs, because, as I have said before, the first floor is on a level with the ground and the second floor is not very high above the ground; as a matter of fact, he had to climb only to what one might call the first floor. The house we had I took at the suggestion of the doctor. Notwithstanding all this, and that our apartments were on the second floor, we might say that it was in reality but the first floor, with very few steps, which my father could ascend and descend, as I have said before, helped by me, not in the manner stated in my letter but approximately in that manner. I use- to take care of him, and that improvement of which I spoke in my letter was deliberately opposed to the truth; for the fact is that when we met in Barcelona I was an absolute stranger to my brothers, having gone to Europe when I was very young and not having seen them for a long time. Some of them had never seen me before. When I arrived at my father's house in Barcelona they looked at me as a stranger and recognized nobody but my father. They had money, but knew absolutely nothing—I asked them how
326 much they had to pay, but they knew nothing. I had to tell them, "You have to pay" so-much for this or that bill." It was about this time that we decided to go to Paris. Then my sister gave me a draft of five thousand odd dollars, for expenses. I had absolutely nothing to do with the manner in which they spent their money. I did not know anything about their habits. They had made their own arrangements, and further I noticed that my brother was the one who controlled everything, as was later confirmed to me by the threats of my uncle, the Marquis of Villacastel. I went to deposit the money in a bank in Paris, and when I decided to sever all connections with them, because it was absolutely impossible to get along with them, I turned over whatever money there was left in the bank. I was unable to pay this money to my father, because he could not take charge of the same, and I then delivered it to my sister, from whom I obtained a receipt for the balance of my bank-account, and for all other papers connected with the disposition of the money. All this will show to you that the head of the family had no control over them, as shown by that letter. I wrote that letter under very trying circumstances. I asked my brothers and sisters to come to me, but they did not come, and kept the money. When all danger had passed they refused to be advised by me. As I had some accounts to render, and nobody seemed disposed to do anything, under the circumstances I decided to seek the advice of competent persons as to what I should do with reference to these family affairs; and these persons pointed out to me the remedy. Nicolas Salmeron, a prominent Spanish lawyer, who had been Prime
327 Minister of Spain, was in Paris at that time. This gentleman was at the time engaged in making a partition of the property of Queen Cristina. I went to him and told him about my father's situation, and of what would finally happen to my brothers and sisters. I told him all about our family affairs, and with all the data

wth which I furnished him he said, "I have examined all those documents. They give me an idea of your father's situation. Your father's situation is abnormal, and there should be appointed an irreproachable guardian to take charge of all his property, but before you can do this it is necessary to have him declared incompetent by the court. In order to attain this you may secure the certificate of the doctors who have been attending him, duly authenticated, that you may present the same to the authorities and judges as evidence of your father's incapacity. No one can certify as to your father's incapacity except those who have treated him. You may also secure a certificate from the local authorities as to the identity of the physicians signing the certificate." After hearing Mr. Salmeron's opinion, I went to see certain famous physicians in Paris, known all over the world for their works on medicine. Bearing in mind that what Mr. Salmeron had told me, I asked these doctors to give me their opinion as to whether my father was capable of conducting his own affairs. Dr. Hortelout, whom I asked whether he would authorize me to have my father execute certain public instruments, told me that he could not give me any such authority, because it was impossible for my father to execute any civil acts, on account of his complete incapacity. I insisted, and
328 said, "Well, doctor, do you mean to say that my father will never recover, that he will never recover his mental faculties, thus destroying all my hopes?" to which he answered, "Considering your father's age, the symptoms of his sickness, the gravity of the same, and the history of his complaint, it seems to me very plain that your father will never recover his mental faculties." I then said, "Will you state in writing what you have just told me?" He immediately got up and wrote out the certificate in question. That certificate has been introduced in evidence here. The certificate of that doctor is also signed by two other physicians. This I did in order to show how I really acted in the matter. This was the cause of the rupture with my brothers; but with that certificate I felt easy in my mind. I suppose that my brother loved my father as much as I did; maybe that was the cause of his disappointment, but he has no reason to impute to me something that I never did. He knew my father. He always wrote to him about business and other matters, believing that he was better than he really was. I did not think that I should disappoint my brother by informing him otherwise, particularly when I expected that my father would soon recover, thus putting an end to our situation and assuming control of the family. Hence the reason for my writing the way I did, giving them details from which they might infer what the actual situation was. What I say in my letter about the Exposition is true. We always used to take a carriage. We took a carriage when we went to the Expositon. I did not want to miss the artistic part of the Exposition, and I alighted from the carriage and went into the Sculpture Section. Before I left the carriage, however, I left the
329 old man on a large bench there. When I returned I took him back to the carriage and drove away, without seeing the

Picture Gallery, because he was not able to climb the steps. This is all that I can say in explanation of those details.

Q. Do you know how old your father was at that time?

A. About sixty-three or sixty-four years old.

Q. You say in this letter that he could climb the steps to the second floor: is that true?

A. Yes. I had to support him. He could climb. I had to support him, but he needed no other assistance, as he could help himself with a cane. My father was not very heavy.

Q. During your father's stay in Paris did he improve physically?

A. Before the accident, yes.

Q. Could you see an improvement in his movements and appearance?

A. He had improved on the left side and I did not need to exert myself too much to assist him.

Q. During your father's stay in Paris was his improvement in health such as to permit him to express his will and to understand what was said to him?

A. He had improved more or less, but not to the extent of being able to understand what was said to him or to write letters. The letter in question was invented by me.

Q. In this second letter you said, "His mind is clearer and he talks to me about everything, particularly about his daughters."

A. I knew that the only one who controlled my brother Francisco was my father, whose authority he could not help ac-
330 knowledging, particularly in business matters of this nature, about which my father was very enthusiastic. He being in Europe and unable to directly participate in the business, I wrote to my brother, speaking for my father, and my brother answered saying that he no longer owned the mines.

Q. Who said that, Francisco?

A. Yes.

Q. Did they not speak about these mines at your father's house?

A. I knew that my father was very enthusiastic about the mining business, but at the same time I realized that it was impossible to discuss the matter with him. However, I talked to him as though he were not sick, for the purpose of exciting his imagination. In order to have some information to give him on the subject, I read the newspapers to him aloud, to see if it would make any impression on him; and it was in this respect that I wrote to my brother that and other letters.

Q. Is it not true that he also spoke to you about that matter?

A. No, sir.

Q. After your father left for Spain, do you know whether he complained with regard to the letters written during the months of April, May and June, and the first letters from Barcelona: do you know whether the letters of Francisco Enriquez were received? (Translator's note:—Question otherwise unintelligible.)

A. The only thing I can positively say is what I have already stated about the mines. I have no recollection as to the other matters. If I made that statement in my letter it was true.

Q. Have you any letters in your possession addressed to your
331 father with reference to the general administration of his property and that particular business to which you referred?

A. No, because when I left home I took the letters and either gave them to my sister Carmen or left them at the head of my father's bed.

Q. Do you remember what those papers were?

A. They were certain letters with reference to repairs and expenses. They also contained something about the Gomez matter. There was another letter from Morales, addressed to my father, demanding the payment of a certain amount of money, and as there was nobody there who could attend to this matter I attempted to answer the letter, by reference to other papers which had been delivered to me by my sister Carmen. In order to avoid arousing suspicion as to my acts I took my father's hand in mine and had him to sign the latter. I could not get him to make his signature correctly: his hand was very stiff. I made every possible effort to show that my father had in some way taken part in that letter.

Q. What papers did you leave at the head of your father's bed?

A. Those papers to which I have just referred. They were letters received in Paris with reference to those matters.

Q. Was your sister Carmen in Paris when you left the house?

A. Yes, sir. I had been feeding my father, and went downstairs and left the house.

Q. Why did you leave those papers at the head of your father's bed and not deliver them to your sister Carmen?

A. He had by his bed a little table, with some small drawers
332 where I used to put the papers, and I left these letters there, that they might read them after I had left. When my uncle arrived I had just finished giving my father his broth, and I immediately went downstairs and left the house.

Q. Did your father speak French?

A. Yes, for he was born in Paris.

Q. How long was he in the Philippines?

A. Forty years.

Q. Did he go back to Spain?

A. Yes, sir.

Q. Did you consider the climate of Paris beneficial to his health?

A. I would not say that it was beneficial. What I can say is that I was sick all the time I was in Madrid, but while in Paris I always enjoyed good health. My idea was that my father should spend every winter in some place in the south of France, to be designated by the doctors, where the climate was mild.

Q. In September, 1883, did you have any relations with Manuel Enriquez?

A. I could not have had any, because the night after my father's arrival in Barcelona there was a rupture between Manuel and myself.

Q. Did you not have anything to do with him?

A. No.

Mr. MONTAGNE: That is all.

Mr. Chicote then read the letter of the 30th of September, 1883,

written from Paris. (This letter appears on page 41 of the
333 case instituted against Francisco Enriquez, in the Court of First Instance of Binondo, for making a false statement in a public document, and marked Exhibit "12".)

Mr. MONTAGNE: This letter of the 30th of September, 1883, signed "Antonio"—who wrote this letter?

A. I wrote it.

Q. Is that your handwriting?

A. Yes, sir.

Q. Did your father dictate that letter to you?

A. Impossible.

Q. Did he dictate that letter to you?

A. No.

Q. How did you come to write that letter?

A. To give more authority to my father's orders I resorted to the method of taking his hand and signing the letter. Notwithstanding all my efforts to imitate his signature I failed and could not write more than the word "Anto." My idea was to show my father had taken a direct part in that letter.

Q. This signature to the letter of the 30th of September, 1883—state who made that signature?

A. I did, placing the pen in my father's hand, but I did not succeed very well in making his signature, because his hand was very stiff. My object, however, was to show that he had taken part in the preparation of that letter, and to give an idea as to his condition.

Q. Are you acquainted with your father's signature?

A. Yes, sir.

Q. Could you identify your father's signature?

334 A. Yes, sir.

Q. I will show you this document. The document which I now show you may serve to illustrate the handwriting and signature of your father (exhibiting to the witness a sheet of paper, signed at the bottom "Antonio"): whose signature is this?

A. My father's signature.

Q. Is this your father's handwriting?

A. Yes, sir and the envelope is here.

(Mr. Montagne then offered in evidence the document exhibited to the witness for a comparison of the handwriting and signature of the other letters attached to the record.)

The COURT: The letter in question is admitted in evidence, with the consent of counsel for the defendant. (Letter marked Exhibit "H.")

Q. Do you know whether you- father sometimes would sign "Antonio" and at other times "Anto."?

A. My father in all public documents always signed his full name. It is the custom of members of families of high rank to sign only their Christian name in private family letters. When my father wrote to his sons or daughters it was his custom to sign "Anto."

Q. Why did he not sign "Antonio Enriquez"?

A. Because it is the custom of people of a certain rank not to sign the surname when they write to their family.

Q. Was it customary for your father to sign his full name in his letters to members of his family.

—. It is very common for people to sign only
335 their Christian name when they write to their family. I attempted to write his name "Antonio," with all its letters, but the stiffness of his hand did not permit of my doing so; and that is why I simply signed "Anto."

Q. If such was the custom, why did you not write his whole Christian name, so that your brother would see that the letter had actually been written by your father?

A. I could not do it any better. I knew that my brother was familiar with my father's handwriting. I was unable to imitate his signature. I simply placed the pen in his hand, and his hand being so stiff I was unable to complete his name.

Mr. Chicote then read the testimony given by this same witness in the case instituted in the Court of First Instance of the City of Manila, before the Honorable William A. Kincaid, which said testimony he offered in evidence. (This testimony appears on pages 118-144 of the record of case numbered twenty-one, instituted against Francisco Enriquez for making a false statement in a public instrument.)

Mr. CHICOTE:

Q. This letter, dated September 30, 1883, is the letter to which you referred in your testimony?

A. It must be.

Mr. CHICOTE: I introduce the letter written by Antonio Enriquez to his son Francisco and signed "Tula," dated Barcelona, March 31, 1884. (The letter in question appears on page 28 of the record of case numbered twenty-one of the Court of First Instance of Binondo, against Francisco Enriquez, for making a false statement in a public instrument. Copy of the said letter is attached to this record and marked Exhibit "6".)

Q. I wish to know whether this is your sister's handwriting and signature.

336 A. I believe so; I think it is her handwriting; it looks like it.

Mr. CHICOTE: I ask the Court to have this document attached to the record.

Mr. MONTAGNE: I object to the admission of this document in evidence, as incompetent and immaterial, there being direct evidence that the letter was written in that form, and as merely hearsay.

The Court admitted the letter in evidence.

Mr. MONTAGNE: Exception.

Mr. Chicote then introduced in evidence two letters, dated Barcelona, September 20, 1883, one of them signed by "Tula" and addressed to Francisco Enriquez. (A copy of this letter is attached

to this record and marked "Exhibit 16"; the original of the same is attached to the record of Case No. 21, against Francisco Enriquez.)

(The letter dated Barcelona, January 31, 1884, signed "Carmen" and addressed to her brother Francisco, is attached to the record of Case No. 21 above referred to. A copy of this letter is attached to this record, marked Exhibit "13.")

Mr. Montagne objected to the admission of these letters in evidence.

The COURT: Objection overruled.

Mr. MONTAGNE: Exception.

Mr. CHICOTE:

Q. Can the witness state whether this is the handwriting of his sister Carmen?

A. I think it is.

Mr. MONTAGNE: I object to the admission of this letter in
337 evidence, as incompetent and immaterial, it having been written by a person who is not a party to this action.

The COURT: The person who wrote that letter is one of the heirs of the deceased Antonio Enriquez, and having an interest in this action the letter is admitted in evidence.

Mr. MONTAGNE: I except to the ruling of the Court. I also object to the admission of this letter, signed "Tula", for the reason that it is incompetent and immaterial, having been written by a person who is now living, and further, because it has no bearing on this case, and its contents cannot be either explained or contradicted by the plaintiff.

The COURT: The letter is admitted in evidence.

Mr. MONTAGNE: Exception.

Mr. Chicote then offered in evidence two letters, dated Guadalajara, May 29, 1883, and July 30, 1883, signed by Manuel Enriquez and addressed to Francisco Enriquez. Copies of these letters are attached to the record, and marked Exhibits 15 and 16.)

Mr. CHICOTE:

Q. The witness will now please state whether these two letters of the 29th of May, 1883, and the 30th of July, of the same year, are in the handwriting of his uncle Manual Enriquez?

A. I seldom corresponded with him, and I cannot say whether they are in his handwriting or not.

Q. Do you think they are in his handwriting?

A. I cannot say.

Q. I now ask the court that notwithstanding the fact that the witness has refused to identify these letters they be attached to
338 the record. I will introduce evidence for their identification.

Mr. Montagne objects to the introduction of these letters in evidence.

The COURT: Under the provisions of Section 328 of the new Code of Civil Procedure, the Court does not consider these letters, written by the uncle of the witness, as incompetent, but counsel for the defendant has the right to have the said letters attached to the record,

not as evidence but in order to secure the ruling of the Supreme Court upon the question of their admissibility, in the event that the case is taken to the Supreme Court.

Mr. MONTAGNE: I except to the ruling of the Court.

Mr. Chicote then read the letters marked Exhibits "13" and "14" of this record.

Mr. MONTAGNE: You have just heard Mr. Chicote read the letter of your sister Carmen; can you give me any explanation with reference thereto?

A. It is very disagreeable and painful for me to talk about the matters contained in that letter. This was a family secret. As they paid for all that, I had to follow the instructions given me. I could not deviate from them without new orders from Manila. These are details of which I would rather not speak.

Q. Do you know whether Francisco Enriquez is the attorney in fact for Carmen Enriquez?

A. Yes, sir; she is the only sister whom he represents.

Q. Do you know whether he represents anybody else, outside of his wife?

339 A. No, sir.

Q. While you were in Europe, and during your stay there, until the time when you wrote to Francisco, did you know the latter's wife?

A. No, sir.

Q. Did you ever know her personally?

A. I had not; I had simply communicated with her by letter.

Q. Can you state whether your father habitually used the right hand or the left hand?

A. No, he was not left-handed; he always used his right hand.

Q. During your father's last illness here in Manila were all his children, except you, with him?

A. The only brother who was absent was George, he having gone to the provinces to look after the mines. I suppose that all the other brothers and sisters were with him, although it may have been that Cayetano occasionally left town.

Q. The others, with the exception of your brother George, who you say was at the mines, were with your father?

A. Yes, sir.

Q. I think you have already stated your father's age, have you not?

A. Yes, sixty-three or sixty-four years.

Q. When were you in Paris?

A. In 1883.

Q. Do you know anything about the letter read here, written by Gertrudis?

A. I did not know anything about it until it was introduced in evidence. I presume that that letter would have been written

340 later, because Mr. Salmeron had so informed me when I wrote to him about these matters.

Q. Did you know anything about the letter written by your Sister Carmen?

A. No, not until it was introduced here in evidence.

Mr. MONTAGNE: That is all.

341 *Testimony of Francisco Enriquez.*

Questions by Mr. CHICOTE:

Q. Are you one of the sons of Antonio Enriquez y Sequera?

A. Yes.

Q. Are you the husband of Carmen de la Cavada?

A. Yes, sir.

Q. What relations have you with Victoriano de los Reyes?

A. Friendly relations only.

Q. In the years from 1882 to 1888 did you have any intimate relations with him?

A. Intimate relations with him, no, sir; purely friendly relations.

Q. Did Victoriano Reyes and his family visit your house?

A. No, sir, they did not visit me.

Q. Did you visit them?

A. No, sir.

Q. Have you been in Manila since the year 1882—have you resided in Manila since then?

A. I have lived here since 1882, yes, sir.

Q. Have you any recollection as to your father's illness?

A. Yes, sir. In the year 1882 he had an attack, precisely on the day after the big storm that swept over Manila, and my uncle, Manuel Enriquez, who was then Governor, came to see my father, for the purpose of taking him along with him, and at the same time investigating the damages caused by the storm. It was also his intention to comfort him, for he was very sad, on account of my mother's death. I do not remember whether it was when he got back to the house from his tour of inspection, or whether it was on the
342 following day, that my father suffered this attack. In my letter of the 30th of December, to my brother Rafael, I spoke of my father's partial recovery. I think that letter was written on the Escolta.

Q. How long after that did you remove to the Escolta?

A. My father was taken ill in October, and we removed to the Escolta in the month of December of the same year. I think it was about the 15th of 20th of December.

Q. Did you remove to the Escolta with the intention of remaining there?

A. No, sir, it was merely temporary. It was at the doctor's suggestion that we removed to the Escolta. Dr. Candelas was the doctor who was treating my father. I had already spoken to him about removing my father to another place, that he might forget his bitter memories of that house where my *father* had died. Dr. Candelas thought that it was advisable to take him to another place, and he was removed to the Escolta.

Q. Do you know what persons attended to your father during his illness?

A. His brother, Manuel Enriquez, his children and all the members of the family who were present.

Q Do you not remember of any servant named Pascual, who used to wait on your father?

A. There was a servant in the house by the name of Pascual, but his duties were confined to the kitchen.

Q. That servant,—did he not take care of your father?

A. That servant never went into the room where my father was. Moreover, he was a man who was unable to speak Spanish, and my father was unable to speak Tagalog, and it does not seem natural that a kitchen boy would take care of my father when the
343 whole family was there.

Mr. MONTAGNE: I ask that the witness's answer be stricken from the record, because it is a mere inference.

The COURT: Motion overruled.

Q. Were the persons who frequented the house of Antonio Enriquez strangers to the family?

A. No, sir.

Q. Did any strangers come to the house of Antonio Enriquez?

A. Some of his friends came to the house, but they never went into the room. The only persons who took care of him were the immediate members of the family, his sons, his brothers, and his nephews.

Q. While Don Antonio was on the Escolta did any persons outside of the members of the family call to see him?

A. Persons who were members of the family would occasionally call at the house.

Q. Could those persons who called at the house of Antonio Enriquez go into the room, see him and speak to him?

A. Sometimes the more intimate friends of the family were allowed to see him; but they generally did not insist, so as not to disturb him.

Q. Did they speak to your father?

A. Yes, while on the Escolta; yes, they did.

Q. Is it true that your father Antonio was in such a condition that he could not move and simply lay on the bed like a log of wood?

A. No, sir, when he was first taken ill of course he could not move, and was unconscious, but about the 30th of December of the year 1882 he commenced gradually to improve.

344 Q. Could your father walk?

A. Yes, sir, leaning on a cane. While on the Escolta, and by direction of the doctor, he would spend hours and hours walking up and down the corridor, with a cane in his hand. While on Calle David he had to be assisted by one of his children.

Q. Did he have any difficulty in moving around?

A. Yes, he moved with some difficulty, on account of the paralysis Of course, he could not walk like a person in good health.

Q. And while in that condition could your father articulate?

A. Yes, sir, he could articulate some words.

Q. Could he do so during all the period of his illness?

A. At first, no, sir; but afterwards, and during the month of December, he could articulate a few words; and when he was removed to the Escolta of course he could not talk freely, but he babbled, and could make himself understood perfectly well.

Q. Can you state what was the financial condition of your family in the year 1882 and thereafter?

A. The financial condition of the family was very good. On account of the expenses of his illness, and the ordinary expenses of the family, some of my father's property was mortgaged, to the extent of eight hundred thousand dollars. The expenses were something enormous, for the support of the family, for the payment of taxes, interest on the money borrowed and insurance premiums—all of which amounted to a considerable sum.

345 Q. Can you give us any information as to the administration of that property,—that is to say, the amount of the receipts and the disbursements?

Mr. MONTAGNE: I object to the question, as incompetent and immaterial.

The COURT: Objection sustained.

Q. Do you know whether or not your father's property included a piece of real estate on the Riverita, on the corner of Calles Numancia and Urbiztondo?

A. Yes, sir.

Q. Do you remember, as attorney in fact for your father, whether that property was sold?

A. Yes, sir.

Mr. MONTAGNE: I object to the question, because it is a mere inference of the witness.

Q. Do you remember to whom that property was sold?

A. To Victoriano Reyes.

Q. Why did you sell that property?

A. Because I needed money to send to the family in Spain, and had no other funds available. As I had no money I was compelled to sell that property, in order to send money to them. I sold the property because it was necessary to do so.

Q. Was there any consideration given for the transfer of the property—did you receive any money for the sale of that property?

A. Two thousand, five hundred pesos.

Q. Was that property sold at public auction?

A. No, sir, it was bought by the estate, at private auction.

346 Q. Did you sell that property for two thousand, five hundred pesos?

A. Yes, sir.

Q. Do you know how long before that your father had bought the property?

A. That property was bought, if I remember correctly, at public auction in the year 1880.

Q. Do you remember how much your father paid for that property?

Mr. MONTAGNE: I object to the question, as incompetent and immaterial.

The COURT: Objection overruled.

Mr. MONTAGNE: Exception.

A. One thousand three hundred and sixty-seven pesos. Although several bidders attended the sale—Genato, Mortera and others—in view of the sum offered by my father they let him have it, for one thousand three hundred and sixty-seven pesos.

Mr. MONTAGNE: I move that the latter part of the answer be stricken out.

The COURT: The latter part of the answer is immaterial.

Q. As the husband of Carmen de la Cavada, do you keep your properties together or do you keep them separate?

A. We keep our properties absolutely separate. We have so agreed in a public instrument.

Q. Do you know whether your wife bought from Victoriano Reyes the property in question?

A. I heard of that afterwards.

Q. When did you learn of it?

A. When Victoriano Reyes told me that he wanted to sell
347 that property, and that he had offered it to my wife, I told him that he could do as he pleased, because she had absolute control over her own property.

Q. Have you and your wife executed any written instrument evidencing that agreement between you?

A. Yes, sir, an instrument relating to the separation of our properties.

Q. Did your wife, Carmen de la Cavada, pay the price of that property?

A. I have already said that she paid two thousand five hundred pesos for it.

Q. Was that money actually delivered to the vendor?

A. Yes, sir.

Q. Was the money paid to Victoriano Reyes?

A. Yes, sir. Before the execution of the instrument I believe that he gave my wife a receipt for it.

Q. Were you present when the money was paid?

A. My wife paid him the money, and I knew of it because she told me later.

Mr. MONTAGNE: I move that the answer of the witness be stricken from the record.

Q. Did you see it with your own eyes?

A. I saw when she paid him the money, but I did not want to interfere.

Q. Did you see the money?

A. I did not want to interfere in her personal affairs—I mean business matters.

Q. Were you present at the time of the execution of that instrument?

348 A. I went to the notary's office, for it was necessary for me to be present.

Q. Did you see at that time any document other than the instrument of conveyance?

A. I saw the receipt which Victoriano Reyes had given my wife when he received the purchase-price.

Q. Has your wife that receipt in her possession?

A. No, it was destroyed, because, it having been stated in the instrument that the purchase-price had been paid, they thought that it was of no further use, and it was destroyed.

Q. Has your wife ever engaged in business of her own?

A. Yes, she used to deal in grain, native cloth and jewels, which were the most profitable to her.

Q. *Q*. The money you received for the sale of that property to Victoriano Reyes, have you charged the estate of Antonio Enriquez with it?

A. When the charge was made with reference to that——

Mr. MONTAGNE (interrupting the witness): I object to the question, for the reason that it calls for an answer which would be against the interest of the witness, and for the further reason that the witness has already stated that the amount which he received he sent to Spain during his father's life-time; and having sent this money to Spain, it passed out of his hands, and no longer belonged to the estate. This item was accounted for in his father's life-time. I further object to the question, because it refers to a fact which must appear in some document. If he has rendered an account of his administration of the estate, the account would be the best evidence.

349 Mr. CHICOTE: I agree with counsel for the other side, that this may be proven by an official document.

Q. Do you remember whether your brother Rafael, by himself, or on behalf of some other person, has heretofore discussed with you the matter of the sale of this property?

A. Yes. This matter is included in a public instrument relating to the inventory and accounts.

Q. Do you remember whether at that time your brother (Translator's note:—remaining words unintelligible.)

A. At the time that discussion occurred that instrument already existed. He went to the clerk's office, and the Court was duly notified of the remittance of the money to my father; but the matter was held in abeyance until the final settlement.

(Translator's note: Answer otherwise unintelligible.)

Mr. MONTAGNE: The testimony of the witness is absolutely irrelevant, there being an agreement between the parties with reference to the amount in question and the manner in which the sale should have been made, the parties having agreed that the instrument is the best evidence that can be offered.

Mr. CHICOTE: I agree to that.

Q. Do you remember whether your brothers objected to the par-

tition of the estate because of the illegitimacy of the sale, or to the partition of your father's estate?

Mr. MONTAGNE: I object to the question, as leading.

The COURT: The witness may testify to matters within his own knowledge.

Mr. CHICOTE: Do you know what the value of this property was in the year 1883?

A. I think it was two thousand five hundred pesos, which I considered a comparatively low price at that time.

350 Q. How much could that property produce then?

A. I do not remember well. The building was in a ruinous condition and I think that it produced some twenty or thirty pesos, at most, per month. I remember there was a Chinese locksmith, who paid eight or ten pesos per month for the use of the property.

Q. Do you know what has been the rental value of that property, from the years 1883 to 1898 and from 1898 to 1900, and up to the present time?

Mr. MONTAGNE: I object to the question, as incompetent and irrelevant. This case only refers to the question of rent.

The COURT: The witness may answer.

Mr. CHICOTE:

Q. Please state what would be the rental value of the property from 1883 to 1890?

A. That property formerly rented for some thirty odd pesos; later, it produced only fourteen, and some six months ago an arrangement was made with two Chinamen, who pay eighteen pesos, and a woman who lives there pays only ten pesos—this being all that the property produces.

Q. What is the present rental value of the property?

A. The present rental value of the property—I do not remember exactly how long ago the contract of lease was made—is one hundred and sixty pesos.

Q. Was that contract made in the month of May of this year?

A. I think so; maybe it was in April.

Mr. CHICOTE: That is all.

I certify that the foregoing is a true and correct transcript
351 of the testimony of the witness.

(Signed) JULIO JIMENEZ JEREZ,
Official Stenographer.

352 JUNE 6, 1908.

Ninth Session.

Mr. Chicote asked that the witness Antonio Enriquez, be recalled, for the purpose of asking him further questions.

The COURT: You may do so.

Testimony of Antonio Enriquez.

Mr. CHICOTE:

Q. I will show you a letter, dated October 30, 1883, written by you and addressed to Francisco Enriquez. (The letter in question appears on page 42 in the record of the Criminal Case against Francisco Enriquez for making a false statement in a public document, instituted in the Court of First Instance of Binondo.) Please state to the Court whether this letter was written by you.

A. Yes, sir.

Mr. Montagne stated that he had no objection to admitting that the witness had written that letter, dated October 30, 1883, and that he admitted that he wrote the same on the date above mentioned.

Mr. CHICOTE:

Q. I will show you another letter, dated November 30, 1883, written from Barcelona and addressed to Francisco Enriquez, signed by Don Antonio, and I will ask you whether you recognize this letter as having been written by you?

A. Yes, sir.

(A copy of this letter is attached to the record and marked Exhibit "17.")

353 Mr. CHICOTE: That is all.

Questions by Mr. MONTAGNE:

Q. How old were you on the 30th of November, 1883?

A. Sixteen or seventeen years.

Q. This letter written by you from Barcelona on that date was written at the time when your father was in Barcelona?

A. I am not certain about the time when I was in Barcelona; that was when he returned from Paris.

Q. You mean to say that you wrote that letter after your father returned from Paris?

A. Yes, sir, after his return.

Q. And after your father was examined by the French physicians?

A. Yes, sir; I can explain that.

Q. Can you explain this letter and the other one—both?

A. When I wrote, or rather, when we wrote that letter, we were acting under instructions from my uncle, who had told us that whenever we wrote to the family in the Philippines we should not tell them of my father's actual condition.

Q. Was your uncle a Marquis?

A. Yes, sir—Marquis of Villacastel. I wrote that letter at the request of my sister Carmen, who gave me an idea as to what I had to write. I was instructed not to tell of my father's actual condition, so that we might avoid disappointing them. For this reason, we never told the whole truth as to our father's condition.

Q. Then your idea was not to disappoint your brother Francisco by telling him the true condition of your father, was it?

A. Yes, sir.

Q. Czn you explain that part of your letter of November
354 30, 1883, where you say, "Your letter we have not read to father, because it showed that you were troubled, and it contained news which would have had a very bad effect on him. He is not in a condition to resist any further aggragating blows. He has had enough trouble already. When you write to us do not forget to to enclose another letter for him, giving him good news about his properties and telling him a lie now and then, to keep him in good humor and avoid his worrying about your situation and the condition of his business, which is always on his mind, as he told Marquis the last time he talked to him."

A. I knew about the visit of the Marquis, but I was not at home then. My sister Carmen controlled everything, and it was at her instigation that I wrote this about the Marquis. My sister Carmen was the one who gave me instructions as to what I should say in those letters, and that is why the letter was written in that manner.

Q. Did you see your father talking to the Marquis?

A. No, sir, I did not see him talking to the Marquis.

Q. Did anybody tell you, before or after you wrote that letter, that the Marquis had been talking to your father?

A. My sister Carmen told me that the Marquis had called at the house; that the Marquis had arrived from the Philippines; but I did not see him. She told me that he had called at the house, but I never paid any attention, because I was not so much concerned in the matter.

Q. You mean to say that you knew that the Marquis had been talking to your father because your sister Carmen told you so?

A. Yes, sir.

Q. You did not know it of your own knowledge—you did
355 not see him, did you?

A. No, sir.

Mr. MONTAGNE: That is all.

Q Do you think that your father's condition while in Manila was the same as when he arrived in Barcelona and when he returned from Paris? Do you think that he always remained in the same condition?

A. When my father returned from Paris he was comparatively better, but considering his serious condition I cannot say that this was appreciable. A physician only could have detected such improvement. When my father returned from Paris he was very ill, and had to use a mechanical apparatus in order to stand up on the floor.

Q. Did he use that apparatus on account of the fracture of his leg?
A. Yes, sir, on account of the fracture of his leg.
Q. Could you not tell for yourself whether your father's condition was the same in Manila as in Barcelona?
A. Yes, sir, it seemed to me that his condition was the same. He was in the same state of illness. He had to be fed and helped in the same manner as ever.
Q. If this was so, how could it have been a disappointment to your brother Francisco to tell the truth about your father's condition, if he already knew what his condition was?
A. Such were the instructions given to me, and I simply followed Uncle Manuel's instructions.

Mr. CHICOTE: That is all.

356 Continuation of the testimony of FRANCISCO ENRIQUEZ.

Questions by Mr. MONTAGNE:

Q. How long before you sold that property to Victoriano Reyes did you know him?
A. I do not remember. I had known him for a long time prior thereto. This was an acquaintanceship: there was no intimacy between us.
Q. Did you know him here in Manila?
A. Yes, sir, in Manila, at the Puerta del Sol.
Q. What is the Puerta del Sol?
A. It is a local store.
Q. Was he a clerk in that store?
A. He used to work there: I do not know what his position was.
Q. Is the Puerta del Sol a commercial house?
A. Yes, sir, it is a mercantile establishment.
Q. Is it a shop?
A. Yes, sir.
Q. Did you have any business with Victoriano Reyes prior to that date?
A. Absolutely none.
Q. Which of you spoke first with reference to the sale of that property?
A. I asked him if he could get some money for me.
Q. Where did you go to see him?
A. I happened to go to the store, and there spoke to him.
Q. How did you know that he was interested in the purchase of real estate?
357 A. When I spoke to him I did not know that he was interested in such business. I merely told him that I needed some money to send to Spain—that I needed money.
Q. When you spoke to him what did he say?
A. He told me that he would think it over—that he had no money available for this investment.
Q. Do you know whether Victoriano Reyes had any money for investment in real estate?
A. He knew that; I did not.

Q. Do you know whether Victoriano Reyes, on any occasion, had bought any real estate in the city of Manila or in any other place?

A. I do not know whether he had or not.

Q. Do you know whether Victoriano Reyes was engaged in the purchase and sale of real estate?

A. I do not know what his business was.

Q. Do you know whether Victoriano Reyes at that time, or at any other time after you spoke to him, was married and had a family?

A. If he was married I did not know it, because it was not my business.

Q. All that you know is that he was a clerk in the Puerta del Sol?

A. What I do not know is in what business he was engaged; I do know that he was a clerk in the Puerta del Sol.

Q. Did you go into the store for the purpose of buying something?

A. I do not remember whether I entered the store for that purpose or not. After the lapse of some eighteen years it is not
358 easy to remember these details.

Q. Did you speak with him inside or outside the store?

A. I cannot remember whether it was inside or outside.

Q. Do you not remember whether he was behind the counter, or in some other place, when you spoke to him about this matter?

A. I cannot remember those details.

Q. Did you have any other conversation with Victoriano Reyes, except on that occasion when you asked him if he wanted to buy the property, and he told you that he would think it over?

A. After eighteen years, how can you expect me to remember whether I had any other conversation with him or not? I don't know.

Q. Did he ask you to sell him that property?

A. He did not ask me; he told me that he would think it over, saying that he needed the money to send to his family. He told me that he would accommodate me if I promised to purchase the property from him, in which case he would make a special effort to get the money to buy the property.

Q. Did he tell you that he would think it over?

A. Yes, that he would try to buy it.

Q. Did he tell you whether or not he had money with which to buy the property?

A. He did not.

Q. Do you remember whether he asked you any questions with reference to the property?

A. He asked me where the property was.

Q. Did you tell him where the property was?

A. Yes, I told him that it was in the District of San Nicolas of Binondo.

359 Q. Did you tell him the street?

A. Yes, I told him on Calle Numancia, on the corner of La Barraca and Urbiztondo.

Q. Did you tell him anout the condition of the house and the improvements thereon?

A. There were no improvements on the house at that time. I simply told him that the house was in a fair condition.

Q. When did you receive the purchase-price of the property? Was it at the time you talked about the property?

A. After we talked about the property, and after he made that promise to me, in view of my statement that I needed the money badly,—on the following day he did not but on the next day he told me that he would try to get the money to buy the property.

Q. When he told you that he had the money with which to buy the property, when did that conversation take place?

A. I have said that I did not hear from him on the next day, but that two days later he informed me that he would make an effort to buy the property.

Q. Where did that second conversation take place?

A. At the store, near the door, on the sidewalk of the Escolta.

Q. Was it out on the sidewalk?

A. At the door itself.

Q. Do you remember whether that conversation took place at the door of the store or on the sidewalk?

A. Yes, sir, right there.

Q. Was it not inside the store?

A. No, sir.

Q. Was it not behind the counter?

A. No, sir.

360 Q. That conversation took place either on the sidewalk or at the door, you do not remember exactly where, do you?

A. Right at the door, near the sidewalk, on the Escolta. I do not remember exactly the time.

Q. What did he say to you at that second conversation?

A. He told me that he would buy the property.

Q. When did he pay you the money?

A. I do not remember, but I think it was two days later that the public instrument was executed.

Q. Where did he pay you the money?

A. At my house.

Q. Was it at your house?

A. Yes, sir, on San Sebastian Street.

Q. Did he go *yo* your house to pay the money?

A. Yes.

Q. Before the execution of the deed?

A. Yes.

Q. How much did he pay you?

A. Two thousand, five hundred pesos.

Q. Was it in banknotes or in silver?

A. Partly in banknotes and partly in silver.

Q. Was it in the morning, in the afternoon or in the evening?

A. I do not remember whether it was in the morning or in the afternoon.

Q. Who was present when he took the money to your house?

A. He came to my house; I was in my office alone.

Q. Did you have your office at your own house?
A. Yes, sir.
Q. Did you make a memorandum of this payment?
A. I counted the money.
361 Q. Was that money to be entered on some account?
A. I got that money for the purpose of sending it to Spain.
Q. Did you enter that amount in any of your books?
A. No, because I waited until the deed had been executed.
Q. Did you not know that that money belonged to somebody else?
A. What do you mean by that?
Q. Was that your father's money?
A. It was money for my father's expenses.
Q. That being money belonging to somebody else, did you not enter that sum of two thousand five hundred pesos in some book?
A. I may say that, the payment of that amount appearing in a public instrument, your question seems to be irrelevant.
Q. I wish you to answer my question.
A. I have already answered that, at the time objections thereto were made, as shown by a public instrument executed in the year 1897.
Q. When did you remit that money to your father?
A. I cannot state the date exactly.
Q. How many days after the receipt of the money?
A. I cannot state positively.
Q. Did you remit that money to your father a week later?
A. All that appears in the public instrument which shows the acceptance of the letter acknowledging receipt of that amount.
Q. Have you a memorandum of that receipt?
A. All that appears in a notarial instrument, in the public instrument to which I have referred, and in the accounts and inventory, executed before a notary public.
Q. I want you to answer my question: how did you send that money, by cable or through the bank?
362 A. Through the bank.
Q. What bank?
A. Through the Hongkong & Shanghai Bank.
Q. Do you know approximately the date on which you sent that money?
A. I cannot remember, after so many years.
Q. Did you send the money by draft?
A. Yes.
Q. Have you any means of ascertaining the date of that draft?
A. I had the draft itself.
Q. Have you it now?
A. No, for that draft has been lost. I had a receipt for it, dated December 1st.
Q. On whom was it drawn?
A. In favor of my uncle Manuel Enriquez, to whom the money was remitted for the support of our family.
Q. Did you get any letter asking you for that money?

A. All that appears in the public instrument.

Q. Do you remember approximately the date on which you sold that property to Victoriano Reyes?

A. The date is shown in the public instrument.

Q. The 12th of March, 1884, is the date on which you sold that property to Victoriano Reyes, is it not?

A. I believe so.

Q. Did he occupy the house?

A. No, sir.

Q. Do you know whether he leased it to anybody?

A. No, for it was not a dwelling-house.

363 Q. Did he rent it to any person?

A. The house was occupied by several Chinese.

Q. Did you ever go with him to see the house?

A. I do not remember.

Q. Do you know whether on or after that date, May twelfth, he went to see that property?

A. I cannot swear as to that.

Q. It appears from another public instrument that three weeks after that date the same property was conveyed by Victoriano Reyes to Carmen de la Cavada: do you know whether this is so?

A. About that time he came to me and told me that he was not satisfied with the house.

Q. Who told you that?

A. Victoriano Reyes.

Q. Where did he tell you that?

A. At my house.

Q. When he bought the property, and when the conveyance was executed, did you have the title deeds of the property?

A. I do not remember.

Q. Is it not true that under the Spanish law, and particularly the notarial law, the notary was required to have before him the old title deeds in drawing up a conveyance of the same property?

Mr. CHICOTE: I object to the question. A notary, better than the witness, may be able to answer that.

The COURT: Objection sustained.

Mr. MONTAGNE: Exception.

Q. When Victoriano Reyes bought that property, and when the conveyance was executed, did the notary have before him the

364 old title deeds of the property?

A. I cannot say; that was the notary's business; I cannot say.

Q. Do you remember whether Victoriano Reyes asked you, or the notary, or some other person, as to the validity or non-existence of the old title deeds?

A. I do not remember.

Q. Do you remember whether Victoriano Reyes, when he bought that property, asked you to show him the title deeds of the property?

A. I do not remember.

Q. Do you know whether or not those title deeds showed that your father was the owner of that property and that he had paid, two years before, one thousand two hundred or one thousand three hundred pesos for the same?

A. That must appear from the instrument which was executed at the time the property was sold at public auction.

Q. After Victoriano Reyes bought that property, you say that you had a conversation with him with reference to the sale of the same to your wife Carmen de la Cavada?

A. Victoriano Reyes came to me and told me that he was dissatisfied with the property, and that he needed money, and asked me to repurchase the property from him. I told him that I could not repurchase the property at that time, because I needed the money to send to Spain, and had no other funds available. He said, "Then I am going to sell the property to whoever wants to buy it," and I replied that he could do as he pleased,—and that is all the conversation we had.

Q. When did you have that conversation with Victoriano Reyes?

A. I do not remember.

365 Q. Approximately how many days before the execution of the deed?

A. I do not remember the date.

Q. Was it in the month of April or May?

A. I do not remember.

Q. Was it two or five days?

A. I do not remember whether it was twenty, five or seven days.

Q. Considering that your wife was the intending purchaser, you might have remembered approximately how many days before the execution of the deed you had that conversation with Victoriano Reyes.

A. I could only tell the date by reference to the instrument itself.

Q. On the 5th of April, 1884—twenty-four days.

A. It might have been ten or eight days.

Q. Where did that conversation take place?

A. At my house.

Q. What was the first thing he said?

A. The first thing he said was that he was dissatisfied with the house, and that he was in an embarrassing position because he had borrowed that money from somebody else and he had to return it at once and sell the property. He asked me to repurchase the property from him, but I told him that he knew very well that I had used the proceeds of the sale to send to Spain, and that I was unable to repurchase the property from him. He then said that he would sell it to any one who was willing to buy it, and I told him that he could do as he pleased about it.

366 Q. Did you speak to him or to any other person again with reference to the sale of that property?

A. No.

Q. Did you not speak to your wife, advising her to buy the property that Victoriano Reyes wanted to sell?

A. I do not remember, but some time before that she told me that Victoriano Reyes had asked her whether she wanted to buy the property, and when she asked my opinion about it I told her she could do as she pleased with her own money.

Q. Did you say that before the execution of the conveyance?

A. Yes.

Q. Were you present when the property was conveyed to your wife?

A. Yes, because the notary said that I had to be present.

Q. Were you present when the instrument was signed?

A. Yes.

Q. How much did your wife pay Victoriano Reyes for that property?

A. The same price.

Q. In what kind of money?

A. I do not know. He went there and paid her. I do not know whether it was in silver, or banknotes, or what. She ought to know. I had nothing to do with that.

Q. Are you unable to say whether it was in banknotes or silver—I mean the money that Victoriano Reyes was paid by your wife for the transfer of that property?

A. I cannot say.

Q. Were you present when the money was delivered?

A. I was there, but when she got the money and made the payment I went away, as I had nothing to do with that, and did
367 not want to have anything to do with it.

Q. Was the money paid in the notary's office or at your own house?

A. At my house.

Q. A few days before the execution of the instrument?

A. Yes.

Q. But you did see the money, did you not?

A. Yes.

Q. Did you not notice whether or not it was silver?

A. There was some silver, but not very much. I do not know whether it was silver or banknotes.

Q. To the best of your judgment and recollection, can you state approximately what was the volume of the amount in silver that Victoriano Reyes delivered to your wife?

A. It was a fairly large pile.

Q. Was it five hundred pesos in silver?

A. I think it was more than five hundred.

Q. Between five hundred and one thousand, was it not?

A. Five or six hundred pesos.

Q. And there were banknotes in addition to that, were there not?

A. I cannot say.

Q. Where was the money paid?

A. In one of the rooms of my house,—my wife's private apartments.

Q. Were you called in when the money was paid?

A. I was at home, and as I was coming out of my room I saw Victoriana Reyes there being paid the money.

Q. What did you say when you saw that operation?

368 A. Nothing. What should I say?

Q. How long did you stay there during the paying of the money?

A. I simply walked over to Victoriano Reyes, and said, "How are you?" and immediately went away.

Q. Did you speak to your wife on that occasion with reference to the payment of that amount to Victoriano Reyes?

A. No.

Q. Did you speak to Victoriano Reyes after he had been paid that amount of money by your wife?

A. No. Why should I speak to him.

Q. Did your wife have that money?

A. As she managed her own property, I had no intervention therein.

Q. How long before that did she bring that money from the provinces?

A. When we returned from the provinces.

Q. On what date?

A. I do not remember. We had been both at Iloilo and Antique.

Q. Was it about two years before?

A. No.

Q. About a year before?

A. I do not know; it may have been about a year.

Q. How much money did she bring from the provinces?

A. Some money, yes.

Q. Can you state about how much?

A. I do not know; it may have been some three to five thousand pesos.

Q. Where did she get that money?

A. From her own business.

369 Q. What kind of business?

A. Business?

Q. Where did she conduct that business?

A. In the provinces.

Q. Were you with her?

A. Yes.

Q. Were you married to her when she had that business?

A. Yes.

Q. You say that she brought from the provinces about three to five thousand pesos?

A. Just about that.

Q. How long were you in the provinces with your wife?

A. We were in the provinces about six or seven years; more than five years, I am sure.

Q. In what provinces?

A. In Antique, Iloilo and Cavite.

Q. Is it not true that at that time you could not go to the provinces, because you were a Government employee?

A. I went as a judge.

Q. Did your wife go with you?

A. Yes.

Q. You say that when you were a judge your wife engaged in business?

A. Yes.

Q. Where did your wife have her establishment for conducting that business?

A. She never had any establishment. That business formerly belonged to Dr. Rey, who had some warehouses where he kept rice. My wife would buy four thousand or three thousand sacks of rice during the season, and afterwards resell it in the provinces
370 at a profit. This was a business which produced sometimes two hundred per cent. profit.

Q. That business which she had with Dr. Rey was in the provinces?

A. Yes, sir, in Antique.

Q. In Iloilo, too?

A. Yes. She also engaged in the purchase and sale of jewels and the loaning of money on jewels.

Q. Did she have any place of business?

A. There was no necessity for any particular place of business. She conducted her business through what we might call brokers, to whom she gave the jewels for sale. That is very common here in the Philippines, and almost all the ladies here engage in that kind of business.

Q. Where is Dr. Rey now?

A. I do not know where he is now. I have not seen him for nineteen or twenty years. I have not heard from him since.

Q. Do you know where he could be found?

A. No, sir, I do not know where he is.

Q. You said that Dr. Rey was the person that conducted that rice business with your wife?

A. Yes, sir, my wife would give him the money and he gave her the sacks of rice, which she later sold at a profit.

Q. Have you, or has your wife, any document to show that, or any receipt to prove the existence of that business between your wife and Dr. Rey?

A. I do not know whether there is anything at all; I have nothing myself; I do not know whether she has or not.

Q. Can you search and see whether you can find any of
371 those documents?

A. I do not know whether I shall be able to find them.

Q. It is quite certain that a person who pays another an amount of money to invest in business, or for any other purpose, gets a receipt of some kind to prove the delivery.

A. The receipt, yes, sir.

Q. Can you search and see whether you can find that receipt at home?

A. It would be difficult to find that receipt, because after the transaction was closed and the money returned it was natural that the receipt should be cancelled.

Q. Have you any account-book of that business?
A. The business was entirely my wife's; I have nothing.
Q. When your wife came back from the provinces, how did she bring that money with her, by a draft, in cash, in banknotes, or how?
A. I think it was in Philippine gold coins, which at that time were the most common kind of local money.
Q. Did she bring that money with her about her person?
A. I do not remember.
Q. Do you not remember whether she brought that money on her person—I mean, in her pocket?
A. She did not bring it on her person; I cannot say where she had it. I suppose she kept it in some trunk or valise, where she had other things of value.
Q. Did she bring that money in a trunk?
A. Yes.
Q. How long before she left Manila for the provinces had she received that amount of money?
A. I had nothing to do with her business; I cannot say.
372 Q. Where did she keep that money while in the provinces?
A. I do not know; I suppose she had it in her own wardrobe.
Q. From what town did she come to Manila?
A. I think it was from Antique, Cavite or Iloilo.
Q. How long before your father's last illness was it that you came back to Manila?
A. In the year 1880 I remember that there was a big earthquake here, which was felt in Manila and throughout the provinces.
Q. Did you arrive in Manila shortly after that earthquake?
A. I do not remember whether or not it was shortly afterwards.
Q. A few months before?
A. I do not remember.
Q. After your father left for Spain did you leave Manila again?
A. No, sir.
Q. Where did you go to live when you arrived in Manila with your wife?
A. When I arrived in Manila with my wife, I think, if I remember correctly, that I went to live in a house in Trozo; I have forgotten the name of the street.
Q. And from there you removed to Calle David, did you not?
A. Yes.
Q. Do you mean where you were living at the time the property was sold to Victoriano Reyes?
A. No, sir.
Q. Did you move to any other house?
A. At that time I was living on San Sebastian street.
Q. It was while there that you sold the property to Victoriano Reyes?
A. Yes, sir.
Q. When you arrived here with your wife, do you remem-
373 ber the bank where you deposited that sum of one thousand five hundred pesos which she had?

A. I do not remember whether she deposited the money at all.

Q. Do you know whether she deposited that money with some person here?

A. I do not.

Q. Did she deposit that money with any person?

A. She had a cousin here, who used to work for Smith, Bell & Company. His name was Ricardo Sumer. I do not know whether or not she ever gave him this money for safekeeping. I cannot say, because I never wanted to interfere in her business.

Q. Where is that cousin now?

A. He has gone to Spain. I am not sure, but I think he has gone to Spain.

Q. How is it, Mr. Enriquez, that your wife, during all that time, never told you in some way or other that she had deposited that money or that she kept that money in some place?

A. No, sir. She had her own wardrobe, where she kept her papers and things of interest. I never interfered in her personal affairs, as we had long before agreed.

Q. Was that a wooden wardrobe?

A. It was an ordinary wardrobe.

Q. Did she have an iron safe?

A. No.

Q. Do you know where she kept the money?

A. No.

Q. Do you know whether she kept that money in her wardrobe all the time?

A. I never searched her wardrobe. She managed her own money. I know nothing about that.

374 Q. Did she have that money when you removed to the other house?

A. I cannot give you any details about that—cannot answer so many questions. I do not know.

Q. The money she paid Victoriano Reyes at the house was hers?

A. Yes, sir, I have said so before.

Q. Do you know whether she brought that money from the provinces?

A. I presume so.

Q. Where did she first get that money she brought from the provinces?

A. This happened some twenty-five years ago. How can you expect me to remember such things? I have no recollection.

Q. When you left the Province of Iloilo in that year did she take that sum of fifteen hundred pesos with her?

A. I do not know.

Q. Has your wife acquired any money by inheritance?

A. I do not think so.

Q. Did your wife get that money by donation from some one?

A. I do not know.

Q. Did your wife at that time engage in the purchase of real estate?

A. No, sir, she did not.

Q. Is it not true that on March 27, 1883, a public instrument was

executed showing that your wife had bought the house on Calle David from Antonio Enriquez, deceased, for the sum of eight thousand pesos?

A. That took place in my father's lifetime.

375 Q. That was two or three days before he left for Spain, was it not?

A. When we returned, my father expressed his desire to dispose of that property, and something was then said about selling it.

Q. When was that?

A. Long before my father's sickness, and my wife then said that rather than see the property sold to somebody else she would buy it herself.

Q. To whom did she say so?

A. To my father.

Q. Were you present when she said that to your father?

A. Yes, sir.

Q. Where did she say that to him?

A. At the house on Calle David, but this was long before my father's illness.

Q. Who else was present when she said that?

A. I do not remember.

Q. The conveyance was executed and signed four days before your father left for Spain, was it not?

Mr. CHICOTE: I object to such questions. All that appears in a public instrument.

The COURT: Mr. Chicote is right. The instrument itself is the best evidence.

Q. Then you know that your father sold that property to your wife, do you not?

A. Yes, sir.

Q. The money invested by your wife in the purchase of that house on Calle David belonging to your father came out of the fifteen hundred you said she had in her wardrobe?

376 A. I suppose so.

Q. When did you say, Mr. Enriquez, that your father was taken ill?

A. In October, 1882.

Q. Did you say your father was taken ill in the month of October, 1882?

A. Yes, sir.

Q. That first attack your father had, was it something serious?

A. As to my father's sickness, subsequent critical condition and later improvement I have given a full account in my letter of December thirtieth, 1882. In it I fully explained everything with reference to his improvement in health, in detail,—this at a time when no ill-feeling existed between us.

Mr. MONTAGNE: I ask that the answer of the witness be stricken out, not being responsive to my question.

The COURT: I think it is responsive.

Mr. MONTAGNE: Exception.

Q. Can you state whether the first attack your father had was serious?

A. I say in that letter that the first attack was serious, very serious. All attacks of that nature are generally serious.

The COURT: The letter itself having been read, it is not necessary to mentioned it, but simply ask the questions with reference thereto.

Q. You say that your father continued in a critical condition on Calle David until he was removed to the Escolta?

377 A. His condition was critical during the first days.

Q. Is it not true that the doctor who was treating your father advised you and your family to have your father removed to the house on the Escolta, that he might not have unpleasant recollections from things around the house where his wife had died?

A. Such were my wishes, and the doctor suggested the removal; but my father refused to do it. The physicians, however, insisted that he should remove to the other house, and told him that he could not continue there.

Q. Your father did not want to leave the house, did he?

A. No, sir, he did not.

Q. Why not?

A. He had lived in that house for many years with my mother; it was a great pleasure to him to be in the place where he had lived with her so long.

Q. How was he induced to leave the house?

A. The doctor interfered, and my uncle, who was then Governor, told him that it was necessary to leave the house.

Q. What did your father say?

A. That if the doctor and his brother insisted on his leaving the house he would leave it, but against his will.

Q. Do you know how long after he was taken sick he remained on Calle David?

A. He removed to the Escolta about the middle of December of that year.

Q. Then he remained in the house on Calle David for about two months after he was taken sick, did he not?

A. He was taken sick in October, about that time.

378 Q. Was he unable to remove to the Escolta in November?

A. I think it was about the middle of December. I do not remember whether in that letter I said anything about his removal, but that letter was written while on the Escolta.

Q. How was your father removed from Calle David to the Escolta?

A. Two months after he was taken sick he could walk a few steps, assisted by two persons.

Q. Could he walk around while on Calle David?

A. He could not walk. He was not in a condition to walk.

Q. Did he descend the steps without any assistance?

A. He was taken downstairs by my uncle and myself, in our arms.

Q. And your brother Antonio, did he not help?

A. I do not remember whether he was inside. I cannot remember such minor details.

Q. Then you mean to say that you and your uncle alone helped him?

A. Everybody helped to take him downstairs.

Q. When you arrived at the house on the Escolta did he go up the steps alone?

A. I do not remember. He did not by himself; he was put on a chair and taken upstairs.

Q. And continued in the house on the Escolta until he left for Spain, did he not?

A. The removal to the Escolta was merely temporary, as the matter of his trip had not been finally decided upon. Everything in the house on Calle David was allowed to remain there.

379 Q. But when he left for Spain he was on the Escolta, was he not?

A. Yes.

Q. Then you mean to say that the only reason for your father's removal to the house on the Escolta was because the doctor and the family were of the opinion that it was not convenient that he should continue in a place where he had lived with your mother, and the object was to dispel any unpleasant recollections?

A. Yes, sir, and I think that that was more than a sufficient reason for his removal.

Q. Have you any public document relating to the separation of property between yourself and your wife?

A. I must have it. That was a private document.

Q. When was it executed?

A. I cannot state the date, because that happened many years ago.

Q. Do you remember who were the tenants of the house here in controversy, from the years 1884 to 1890?

A. No, sir. They were Chinese. After such a long time I cannot remember so many things.

Q. Do you keep any book or account showing the receipts of rent from the house?

A. My wife knows that.

Q. Does your wife keep such books and account?

A. I don't know; I have already told you that I never interfered with her business.

Q. You mean to say that you do not know whether there are any books or account showing the receipts from that property?

380 A. No.

Q. Have you ever seen any book or account with reference to collections from that property?

A. No.

Q. Do you not know the names of the occupants of the house?

A. No.

Q. Did you collect rent from that property from 1890 to 1900?

A. No.

Q. Do you know whether any book or account showing the rents received from that property during that year exists?

A. No, neither.

Mr. MONTAGNE: That is all.

Mr. Chicote then introduced in evidence the document attached to the record of Case No. 21, instituted against Francisco Enriquez in the Court of First Instance of Binondino, for making a false statement in a public instrument, which said document appears on Pages 132, 133 and 135 to 139 of the said record. Copies of these documents are attached to the record and numbered 25, 14 and Letter "G," which have also been introduced in evidence by the Plaintiff.

Mr. Montagne objected to the introduction of the document marked Exhibit "25," as being hearsay and having no bearing on this case, and further because it is a document not signed by Antonio Enriquez.

The Court then stated that the document in question, being a judicial order signed by the clerk of the Court, he would allow the same in evidence.

Mr. Montagne then objected to the admission of this document, for the reason that the same is not signed by any of the defendants in this case.

381 The Court remarked that it would not allow the document were it not for the fact that it was signed by a clerk of the court.

I certify that the foregoing is a true and correct transcript of the testimony of Francisco Enriquez.

(Signed) JULIO JIMENEZ JEREZ,
Official Stenographer.

382 JUNE 7, 1902.

10th Session.

Testimony of Emilio Martinez Llanos,

who, being duly sworn, testified as follows:

Questions by Mr. MONTAGNE:

Q. What is your name?
A. Emilio Martinez Llanos.
Q. Your age?
A. Thirty-five years.
Q. Residence?
A. Calle Cabildo. Intramuros.
Q. How long have you resided in Manila?
A. Since I was born.
Q. What is your profession?
A. Attorney at law.
Q. How long have you been an attorney at law?
A. Since the 6th of April, 1892.
Q. Have you practiced in Manila during that time, or since that time?

A. All that time, except when I held some judicial office under the Spanish Government in the provinces and in this city.

Q. Mr. Llanos, from your experience as an attorney in the courts of Manila, and other courts of the Philippine Islands, do you know what was the custom when a clerk served an order of the court upon a person—did he make such service personally or through another person? What was the custom?

A. The clerk usually would serve such orders, but some-
383 times he would deputize some other officer of the court.

Q. Do you know whether it was customary to have those orders served by the Sheriff?

A. It was not very common.

Q. Do you know whether it was ever done?

A. Sometimes it was done.

Q. And when the order was served was it not made to appear that the clerk himself had served it?

A. I do not know of any particular case, but I have heard of its having been done.

Q. Mr. Llanos, are you acquainted with a man by the name of Altman, who claims to be a doctor?

A. I have never met him, but I know him by sight. I had an opportunity to know him in Bilibid Prison, when I was prosecuted in various cases for contempt of court.

Q. How long have you known him?

A. I knew him in Bilibid, for he was in charge of the Women's Hospital of that prison.

Q. Do you know anything about his character in Manila, for honesty, integrity and virtue?

Mr. CHICOTE: I object to the question, because no one here has impeached his honesty and virtue.

The COURT: The opposite party always has the right to impugn the character and reputation of all the witnesses.

Mr. CHICOTE: Let the witness answer.

A. As to his honesty, integrity and virtue, as I never met him personally——

The COURT: He means, what people say.

A. I have not a very favorable opinion of this man, be-
384 cause while in Bilibid I had occasion to notice certain abuses which it was said he had committed in that establishment.

Q. Do you know what people say—what the public rumor is?

A. Yes, I know something.

Q. Is that public rumor good or bad?

A. Lately, at least, I have not heard very well of him.

The COURT: Who did you say was a prisoner in Bilibid?

A. Myself. I was prosecuted in five separate cases for contempt of the Supreme Court, and the Military Governor ordered my imprisonment.

Mr. CHICOTE: To what time did you refer when you testified as to the custom and practice in the Tribunal of Justice? Did you practice any of the customs with which you became acquainted as a prac-

ticing attorney in this city? To what time did you refer—did you refer to the year 1888 or to the period from 188- to the present time?

A. I referred to the period after 1892. I was admitted to the bar in 1892, and could not have referred to any prior date.

Q. Then you cannot testify, and cannot give your opinion as such practicing attorney, with reference to the practice obtaining in the courts of justice in the years 1882, 1883 and 1884?

A. No, sir. I was admitted to the bar only in 1892.

Q. Do you know what the Codes of Civil and Criminal Procedure in force at that time provided with reference to service of such orders—whether they should be served by the clerks or by the Sheriffs?

385 A. When deputized by the court, the sheriffs would serve the order. In some cases, where the clerk himself had to serve the papers, he would send one of the deputy sheriffs.

Q. Did that happen very frequently?

A. Sometimes, not often.

Q. Can you cite me a single case?

A. I have no recollection of any particular case.

Q. While you were acting judge, did any such case ever come under your observation?

A. No, sir.

Q. As a practicing attorney, did you ever have a case in which that was done?

A. No, sir.

Q. Do you remember any particular case that you yourself have seen—some case that we can look up and verify your statement by?

A. I do not remember.

Q. Do you remember any person to whom that has been done—the name of some person that can be cited here as a witness now?

A. I would require some time to recall it.

Q. When the order was delivered to a deputy sheriff for service was that fact stated in the order?

A. When he was deputized by the court, yes.

Q. And in such case the service of the order so made—by whom was it signed?

A. By the judge and the clerk.

Q. And the deputy sheriff did not sign?

A. The court would issue an order signed by the clerk, and the sheriff would sign the certificate of service.

386 Q. And what would the sheriff do afterwards?

A. He would make a certificate as to the service of the order and make his return to the court, through the clerk.

Q. Do you know Mr. Altman personally?

A. I never had the pleasure of meeting him.

Q. Have you ever lived with him?

A. No.

Q. Have you ever lived near him?

A. While in Bilibid Prison I used to see him all the time; he was in charge of the hospital.

Q. And what did you see him do?

A. He was in charge of the hospital; I saw him go into the hospital and walk about the place.

Q. Have you ever heard of or witnessed any infamous act, on the part of that man, which would disgrace him, which would discredit him, or which would cause him to be not believed?

A. I have heard that he was investigated by the Government on account of a complaint that was made by a newspaper of this city, in the month of May. An investigation was made by an American military commander, who went to the prison and took the depositions of several witnesses, I among them. An order was issued by the Provost Marshal General that all prisoners of a political character who were confined and were suffering from ber*b*beri should be set at liberty. Some of the political prisoners wanted to leave the hospital, and were discharged by the military physicians of the prison, instead of the Chief Surgeon. It happened that after this order was issued several prisoners were discharged for the reason that they were
387 suffering from beriberi, when apparently they were not sick at all. This aroused the suspicions of the military authorities, and it was rumored that Mr. Altman for a certain sum of money had certified that such prisoners were suffering from beriberi, and had them discharged. That is what I have heard, but I did not see it.

Q. Who made that complaint in the newspapers?

A. I understand that the complaint which was published in El Progreso was signed by one De la Cruz.

Q. Have you ever been told who signed that complaint or whether it was an anonymous one?

Mr. MONTAGNE: I object to the question, as irrelevant and immaterial.

A. I did not pay any attention. A few days later I was pardoned by the Governor-General, and resumed the practice of my profession. I have not read the newspapers since, and have never looked into that question at all. I think, however, that I read an article in the paper with reference to this matter in which it was said that these charges against Mr. Altman had not been substantiated—that is to say, that nothing could be proven against him.

Q. When were you in jail, when Mr. Altman was in charge of the hospital of the prison?

A. I have been in jail several times. I was detained twice, if I remember correctly; the fifth time was in September, 1900; the second time in July, 1900, and the last time from February 11, 1901, to June 4th of the same year.

Q. At which of those times did you know him?

A. The last time.

Q. Do you know what the result of the investigation was?

A. I do not know. The American military officer went
388 there to make the investigation a few days before I was discharged.

Mr. MONTAGNE: The witness is testifying with reference to Mr. Altman's reputation; he has not testified as to any particular facts.

The COURT: In all his questions counsel must look to the foundation.

Mr. CHICOTE: The witness has referred to a complaint and to an investigation which he says was held, and I want to know what the result of that investigation was.

WITNESS: I do not know, for it took place a few days before I was discharged. I was discharged on the fourth of June and the investigation was made in the latter part of May. I cannot say now whether it was the twenty-ninth, the thirtieth or the thirty-first.

Q. After you were released from confinement did you hear anything prejudician to Mr. Altman?

A. I have heard many things against him.

Q. Can you state the name of any person who has said anything to you against Dr. Altman?

A. I do not remember. In conversation, I have heard remarks made detrimental to the doctor.

Q. Can you cite the names of any persons present at such conversations?

A. I do not remember.

Q. Do you remember the persons who were with you in Jail?

A. Yes, I remember many of them.

Q. Can you mention the names of any of them?

A. I was first placed in a special cell; then I was transferred to the hospital, where most of those bearing the designation of
389 foreigners were—I mean those who were not natives and the officers and chiefs of the revolution, who were held as political prisoners. I remember the names of some of those whom I knew, but the others I never met.

Q. And those persons who were so detained were the persons who made those remarks against Dr. Altman?

A. This was in the general conversation; I was in one cell, and the other prisoners were outside.

Q. Did you hear those remarks while in that cell?

A. Yes, sir.

Mr. CHICOTE: That is all.

Mr. MONTAGNE: They being in the same situation as you, do you think that they could have heard those same remarks?

A. I do not know; it was vox populi in the prison; it was universally rumored in the prison.

Mr. MONTAGNE: That is all.

390 *Testimony of Manuel Jerez Burgos.*

Having been duly sworn, testified as follows:

Questions by Mr. MONTAGNE:

Q. What is your name?

A. Manuel Jerez Burgos.

Q. What is your age?

A. Forty-six years.
Q. What is your residence?
A. Sampaloc.
Q. What is your profession?
A. Assistant Physician and Chief of Bureau under the Spanish Government.
Q. How long have you resided in Manila?
A. All of my life with the exception of a few months in British India.
Q. How long have you been a physician?
A. Since 1878.
Q. Do you know Dr. Altman who claims to be a doctor?
A. Yes, I have known him since 1879.
Q. Do you know anything about his general reputation in Manila; that is, what public rumor says about him. You need not mention any concrete facts. Do you know anything about the reputation or fame of Dr. Altman?
A. Yes sir.
Q. Is that reputation good or bad?
A. Bad enough.
391 Q. Were you in the hospital every day as a civil physician?
A. In my own hospital, yes, but not in the military hospital.
Q. Did Mr. Altman act as a physician there?
A. No.
Q. Did you watch Mr. Altman all the time?
A. No, but I know that he was a hospital steward. I saw him go out and make his report to the physican whom he would accompany occasionally on his tour of inspection. This I know because I saw him and further because I knew what sort of work he was doing.
Q. Did you ever see him report to the doctor?
A. Yes.
Q. Then the doctor used to go there, did he not?
A. It was his duty.
Q. What have you heard against Mr. Altman to induce you to believe that he had a bad enough reputation?
A. I know something more than mere reference. I have been an eye witness to disgraceful conduct on his part. This Mr. Llanos has forgotten in his testimony. One of the prisoners paid Mr. Altman a certain sum of money to secure from him his liberty on the grounds that he was suffering from Beri-Beri when as a matter of fact he was not suffering from such disease. This is shown by a written declaration which I have in my possession. Once a female prisoner in my charge developed a cutaneous eruption and thinking it might be Smallpox, I kept her under observation. She was a girl fourteen or fifteen years old. I went home that day expecting to come back in the evening and if the eruption became purulent to send
392 her to the hospital. I found that Mr. Altman, on his own motion and acting in excess of his authority, had taken the woman to a cell and thence to San Lazaro Hospital. A few days later the girl was returned to prison, and upon examination I found

that what she had was not smallpox. She then stated to me: "Mr. Altman outraged me. He took me to one of the prison cells and raped me". I immediately reported the matter to the prison authorities and the Military Governor, under whose orders I was. An investigation was subsequently held. Witnesses were presented but their depositions were not taken. The girl testified as to what had been done to her, but a few days later she made a statement contradicting what she had said before. She was forced to do so by intimidation.

The COURT:

Q. Is that woman now in Manila?

A. No, but I am and Mr. Llanos and those who worked under him, Altman, and before whom he admitted having had sexual connection with the woman.

Q. Do you know what was the result of that investigation?

A. I do not.

Q. Don't you know that Mr. Altman was acquitted?

A. I do not.

Q. Did you not take an action part in his prosecution?

A. No, I merely reported the matter to the authorities at the request of the girl.

Q. Did you not call witnesses and secure affidavits for the purpose of presenting them to the Court?

A. No sir.

Q. Did you not say that you had Mr. Llanos' affidavit in your possession?

393 A. He gave me a copy of the testimony given by him before the Military Court Martial, for my own protection.

Q. Why did you have to protect yourself?

A. Because I had had some trouble with the officer in charge of Bilibid prison. He pre-ferred charges against me to the Provost Marshall General and I had to defend myself.

Q. Well, were you also prosecuted?

A. Not in connection with this case. It was something different.

Q. Then you, as well as Mr. Altman, were prosecuted, were you not?

A. The result of the investigation was that Mr. Taft reversed the judgment and gave me a Government job.

Q. Do you know whether after the investigation was held Mr. Altman had any official position?

A. Yes.

Q. Do you know whether Mr. Altman was admitted to examination by the Civil Service Board?

A. Yes, as a sanitary inspector but not as a physician. He was dismissed for bad conduct.

Q. Can you prove that Mr. Altman was not examined as a physician by the Department of Health?

A. No.

Q. Do you know that twenty-six candidates applied for a position and that he got the highest average?

A. That was not a doctor's examination. The Board has no authority to examine physicians.

Q. Was he examined by that Board?

A. No sir.

—. ——.

394 A. No the person who was under obligation to present such diploma was the Chief of the Board of Health.

Q. Can you state positively of your own knowledge that he has not presented that diploma?

A. I can, I have been told so by some of the officers of the Board of Health, Dr. Carmen, Dr. Arbella and others.

Q. How many times has Dr. Altman registered as a physician?

A. I do not know. Not even once.

Q. Why did he exhibit his diploma to the Director of Health? Was it necessary for him to do so?

A. The officers have told me that he attempted to register but was not allowed to do so because he had no diploma.

Q. Do you believe that Dr. Altman was not registered?

A. I do.

Q. Can you swear that he was not registered?

A. I have been assured that he has never been registered because he has no diploma or certificate. I do not know whether he has registered lately after passing the examination.

Q. What you know with reference to this matter is merely hearsay is it not?

A. I cannot know of my own knowledge because I do not belong to the office.

Q. How many official positions has he had since he left Bilibid and the investigation was held?

A. I do not know.

Q. Do you know that he has had any official positions since then?

A. I have already said that he did not. What is the use of asking me the same question again?

395 Questions by Mr. CHICOTE:

Q. Do you know whether Mr. Altman has been an assistant surgeon in the American Army?

A. He has not been a surgeon of the American Army. He was merely a hospital steward at Bilibid Prison, in charge of the hospital of that prison.

Q. What was his rank in the Army of the United States?

A. Sergeant and nothing else.

Q. Do you know that Dr. Altman was a surgeon in the American Army?

A. No, he was not a surgeon; he belonged to an auxiliary body.

Q. Do you know whether Dr. Altman was discharged from the American Army as an army surgeon or as a lieutenant?

A. He could not have been discharged as a surgeon because he had no license.

Q. Do you know when he was discharged?

A. In the latter part of June of last year.

Q. Do you know anything about his conduct and reputation as noted in his personal record?

A. No sir, and I do not care.

Q. Do you know when he was discharged after he had been acting as physician of the military prisoners at Bilibid Hospital?

A. He was not the attending physician of the military prisoners at Bilibid.

Q. Who was the attending physician?

A. Dr. Boch.

Q. Did he go there every day?

A. I do not know. It was his duty to do so.

396 Q. Was he not examined?

A. No sir.

Q. Do you know that of your own knowledge?

A. Yes sir.

Q. Can you swear to that.

A. Not until some months ago he had not. I do not know whether he has taken the examination since.

Q. Can you state positively that he has never been examined as a doctor in medicine and surgery.

A. No sir.

Q. Do you know whether a person can register with a college of medicine and pharmacy without having a license or diploma?

A. No, but he can deceive the authorities and make them believe he is a physician when as a matter of fact he is not.

Q. Does a college of medicine and pharmacy require the presentation of a professional license or diploma before registration?

A. There are cases in which a candidate promises to present his license later and some of them have been dropped from the register because they have failed to do so.

Q. Did you ever speak to Dr. Altman?

A. Yes, he told me that he had two diplomas, but it now transpires that he has none.

Q. Did he speak to you in connection with his registration?

A. No sir.

Q. Was he under obligation to show you his diploma?

—. ——.

397 Q. Is it true that you have had some personal trouble with Dr. Altman?

A. Not on my part. I don't know as to him.

Q. Did you ever make any investigation, the result of which might have disgraced him?

A. I have never been a public authority vested with such power.

Q. But have you never made any investigation against him?

A. I have not.

Q. Are you not the party who published an article in the newspaper "El Progreso" signed by another person?

A. No sir, I never publish articles signed by other persons. A man who publishes an article signed by somebody else's signature is not an honest man. Your question is offensive to me.

Q. I am not telling you, I simply ask you.

The COURT: The question is not necessarily offensive. Some persons publish articles under a nom de plume.

A. That is different from a person who publishes an article signed with the name of another. Considering the nature of the question, it cannot be more offensive.

The COURT: Some of the most famous authors adopt nomes de plume.

A. That cannot be. When I received the document, I sent it to General McArthur. I also sent it to "El Progeso" and other newspapers.

The COURT: Attorneys generally have great zeal in their clients but I am sure that Mr. Chicote did not mean to insult you.

Mr. CHICOTE: I am going to ask the witness a question:

Q. Is there any ill feeling between you and Mr. Altman now?

398 A. Not on my part. I do not know how he feels about it.

Mr. CHICOTE: That's all.

399 *Testimony of Jose Ernesto del Rosario.*

Having been duly sworn, testified as follows:

Questions by Mr. MONTAGNE:

Q. What is your name?
A. Jose Ernesto del Rosario.
Q. Your age?
A. Twenty-four years.
Q. Your residence?
A. No. 164 Calle Alix, Sampaloc.
Q. Your occupation?
A. Doctor of Medicine and at present in charge of the female ward at San Lazaro Hospital.
Q. How long have you, lived in Manila?
A. Ever since I was born, but I have been abroad as a ship's physician.
Q. Do you know a man by the name of Altman who claims to be a doctor?
A. Yes, I know him.
Q. Do you know what is his general reputation; what the rumor in Manila is as to his fame?
A. Those who have spoken to me about him never referred to him in good terms.
Q. Do you know whether his reputation is good or bad?
A. It is bad.

Mr. CHICOTE:

Q. Where have you heard people talk about Mr. Altman's conduct.
A. While I was at San Lazaro Hospital and after I left the hospital.

400 Q. Whom have you heard speak of him?
A. All of my friends, and the doctor in charge of the San Lazaro Hospital before I became Chief Surgeon of the hospital.

Q. Did you ever have any trouble with Mr. Altman at San Lazaro Hospital?

A. I would not call that personal trouble; it was merely undue interference on his part. I do not consider that as personal trouble, but merely as personal friction. He antagonized me with the Chief of the Hospital but I did not consider that a personal matter.

Q. Can you state the name of some person with whom you have talked and who has convinced you of the bad fame of Dr. Altman?

A. I know that of my own knowledge. We were together in the same hospital at the same time and I know about it.

Q. Whom have you heard speak about his bad fame?

A. I do not know whether those persons would consent to my divulging their names. They are Filipino, American and Spanish physicians but I do not know whether they would care to have their names divulged.

Q. Did you speak to them in conversation?

A. No sir, I spoke to one, to two * * *.

Q. Can you state what they said to you?

A. If I was forced under the law to do so, I would.

Q. Do you think you could take the liberty to say what they told you?

A. Dr. Gomez, who is now dead, Dr. Arbella, Dr. Ferraz, Dr. Calderon, and others whom I do not remember.

Q. Do you know how long Dr. Calderon has lived in the Philippines?

A. I do not.

401 Q. Has he been here three months?

A. More than two months.

Q. Three months?

A. I do not remember exactly.

Q. Has he been here two years?

A. I do not remember.

Q. You do not know whether Dr. Calderon has been in the Philippines three years or three months, do you?

A. I do not know.

Q. When did you meet him for the first time?

A. I met him when he was on the newspaper "La Democracia". I do not remember whether it was the month of April or March.

Q. Do you know where Dr. Calderon pursued his studies?

A. In Manila.

Q. Did you know him before that.

A. I think that I met him when he was on the newspaper "La Democracia". I met him again when I relieved him at the San Lazaro Hospital.

Q. Do you know that the Doctor returned from America some four months ago?

A. I do not know when he arrived in the Philippines.

Mr. CHICOTE: That's all.

402 *Testimony of Augusto Montagne.*

Having been duly sworn, testified as follows:

My name is Augusto Montagne. I have resided in Manila since 1899. I am a lawyer and have been practicing in Manila since I arrived here. I was a lawyer in American from 1890. I do not remember exactly the date.

While I was acting as attorney for the heirs of Antonio Enriquez, with the exception of those whom Mr. Chicote represents, and while in my office *of* the corner of Calles Cabildo and Santo Tomas, Dr. Altman, one of the witnesses in this case, came into my office; into my private office because we are three partners and each one of us has a private office which has nothing to do with the general receiving office. As I said we went into my private office and he spoke to me with reference to other matters which had nothing to do with the present case. In the course of our conversation he told me that he would like to convince me with reference to the Enriquez litigation; that he desired to settle the matter because he was interested in it. He did not say what interest he had but merely stated that he expected to get enough out of the result of this case to leave the Philippines. I then told him that if he had anything to say he should first show me where my clients were in error and I would consider the matter. My idea was to obtain such information as I could get from him as to what the other side had so that I might prepare myself to meet their claims. This was the substance of our conversation.

A day or two later, and while at my house on Plaza Santa Ana, opposite Mr. Chicote's office, he came to me. It was about
403 eight o'clock in the evening. He knocked at the door. I got up and opened the door and found that it was Dr. Altman who had called. He had never called at my house before. He came in and took a seat. He had with him a bundle of papers. We talked about some indifferent matters and I invited him to take a bottle of beer, while seated in the corridor of my house where there were some chairs. I was dressed in pajamas. He asked me to examine the documents which he had with him with reference to the Enriquez matter. I looked over the papers and saw that they were some documents, copies of which I had in my possession. They referred to the conveyance of the property on Calle Dulumbayan, to the transfer of 1/10 part interest in the estate of Antonio Enriquez in favor of Carmen de la Cavada, the deed executed by Victoriano de los Reyes in Favor of Carmen de la Cavada, and other papers. I then told him that those papers would not change my mind,—that they were nothing new to me. I noticed that he wanted to say something but did not dare do it. I then commenced to talk familiarly with him in order to give him a chance and find out what he wanted. I hesitated for a while and my suspicions were not aroused until I noticed that he wanted to say something but did not dare do so. He finally stated: "Here, you can make some money if you conduct this Enriquez case so that the other side wins. You can pretend to

take some interest in the case, but give Mr. Chicote a chance to win the case and you will get anything from ten to fifteen thousand pesos. I assure you that you will get ten or fifteen thousand pesos". I kept quite cool without showing any excitement and after hesi-
404 tating a while I said to him: "Who authorized you to talk to me about this matter"? And he replied: "I have been authorized by Francisco Enriquez to speak to you". I then asked him if he had written authority from Francisco Enriquez and he replied: "I assure you with my life that if you do that you will get ten or fifteen thousand pesos out of the deal". I then said: "I cannot discuss this matter with you unless I am sure that you have been duly authorized to deal with me; bring me written authority from Francisco Enriquez empowering you to negotiate with me with reference to this matter and then we will talk it over". My idea was to secure some writing or something connecting Francisco Enriquez with the deal but I did not succeed. Altman told me that on the following evening he would bring written authority empowering him to negotiate with me.

I do not remember what happened afterwards, but I think that two days later, I do not remember exactly, and about the same time in the evening, he came to my house while I was in my pajamas. He knocked at the door. I got up and Mr. Altman and Mr. Partier, who was the owner of the house, came in. They said good evening to me and we sat at the same place where we sat before. Either Mr. Altman or Mr. Partier told me that there was a gentleman who wanted to buy one of my carriages; that I had three carriages and not having enough horses I wanted to sell one or two of the carriages, and they wanted to see one of them. I did want to sell one of the carriages, all three of them if I could, and Mr. Partier, Mr. Altman and myself went down stairs, took a look at the carriages, went up stairs again and sat down. Mr. Partier then said
405 good night and left and Mr. Altman remained alone with me. When Mr. Partier said good night Mr. Altman and myself accompanied him to the door. Mr. Altman and myself sat there alone and he said to me: "Well, I have not brought that written authority with me because he has refused to give it to me, but I assure you that I am authorized to speak to you". I then said to him: "What, don't you have that written authority?" I then informed him that if he did not bring that written authority as he had promised I would not speak to him any more about the matter. I told him this in a forceable manner and he left.

Before he left I told him again that if he did not bring that written authority he need not come back to me again and say another word about this matter. My idea was to get something in writing from Francisco Enriquez connecting him with Dr. Altman.

This is all I have to say.

406 *Testimony of Rafael Enriquez.*

Having first been duly sworn in accordance with law, testified as follows:

Questions by Mr. MONTAGNE:

Q. What is your name?
A. Rafael Enriquez?
Q. Do you know Mr. Altman?
A. Yes sir.
Q. Do you remember having had a conversation with me in my office about a month before with reference to Mr. Altman?
A. Yes, in the presence of Mr. Dominguez.
Q. Can you state whether during this conversation I told you what I intended to do with Mr. Altman?
A. Yes, you and Mr. Dominguez told me that Mr. Altman had been in your office and that you presumed what his intentions were and that your idea was to secure from him some written document whereby you could prove what you thought he wanted to do.
Q. Mr. Rafael, do you remember a public instrument that was introduced here in evidence? Do you remember whether you were in Manila on November 20, 1892?
A. Yes.
Q. Do you remember whether at that time you took part in the execution of a notarial instrument together with Francisco Enriquez, your brother Antonio and Carmen de la Cavada, before Enrique Barrera y Caldez, with reference to your father's estate?
A. Yes.
407 Q. Did any person tell you, or did Francisco Enriquez or any other person say to you that the property here in question had been sold to Carmen de la Cavada?
A. No, I did not know that.
Q. Did you have any knowledge of the execution of that instrument?
A. Yes, I found that out later. I think that it was in the proceedings relating to the declarations of heirs that the guardian told me that they had had some trouble with the registration of that instrument because the declaration of heir had to be obtained before it could be so registered. He told me that the property had been sold to my sister-in-law. When that question was raised in the office of Attorney Moreno Lacalle, we were informed that the property had been sold, not to my sister-in-law but simply that it had been sold by my brother, Francisco by virtue of the power of attorney which he had.
Q. Did you see that power of attorney at that time?
A. No sir.
Q. Did you see that power of attorney before that time?
A. I do not remember exactly.
Q. At that time or before that time did you ever speak to Vic-

toriano Reyes or to any other person with reference to what he, Victoriano, had paid for the property?

A. I do not have the slightest idea.

Q. Do you have any information which would lead you to believe that Victoriano Reyes did pay nothing for that property?

A. I found that out afterwards.

408 Q. Prior to that time, did you have any such information?

A. No, I did not know anything about it.

Mr. CHICOTE:

Q. Do you remember having held a meeting on the third of November, 1897, at which you and your other brother Antonio were present and that you then said that you understood that the property situated in the district of Binondo belonged to your sister-in-law and do you not remember that Francisco Enriquez then exhibited to you a deed evidencing the conveyance of that property?

A. If he exhibited it at the time it must have been while Attorney Lacalle was discussing the matter. Mr. Moreno picked up the instrument and said: "Gentlemen, here is the deed of sale. Francisco Enriquez sold this property as attorney in fact to one Victoriano de los Reyes. I think that there can be no possible doubt about this question and I, as an attorney, must tell you that it should be admitted by you". It was my purpose to settle this matter in a legal manner as soon as possible and we all assented to what he said.

Q. Did you say that you did not have any knowledge as to this instrument? I refer to the deed of sale in favor of Victoriano Reyes.

A. No sir, I did not have such knowledge.

Q. Do you remember whether on the 27th of December, 1897, you filed a sworn complaint against your brother, Francisco Enriquez, in case numbered 82, in which said complaint you

409 referred to the sale of this property, alleging that Victoriano Reyes could not have bought same because he was a mere laborer without any means at all?

A. Yes, but that knowledge was subsequent to the filing of the complaint. I found later that Reyes did not have a cent; that he was simply a clerk in one of the local stores and that he did not have money enough to buy that property.

Q. But you knew that before the 27th of December, 1897, did you not?

A. Yes sir.

Q. Do you remember that in one of the paragraphs of your complaint you stated that Carmen de la Cavada could not have bought that property because she was poor and that her parents were also poor when she married your brother, Francisco Enriquez?

A. Yes.

Q. Then you knew that before the 27th of December, 1897, did you not?

A. Yes sir.

Q. And you made that statement with reference to Carmen de la Cavada in order to impugn the contract executed between her and Victoriano Reyes, did you not?

A. Yes, I learned that afterwards when the question was brought up. He presented the matter to us, saying that the property had been sold by him as attorney in fact to a certain person but I did not know who that person was. I later found out that the alleged vendee was a clerk in a local store who had nothing but his monthly salary. I also found out that the property had not really
410 been sold to Victoriano Reyes but to my sister-in-law. This was the reason why we impugned the sale.

Q. But you knew before the 27th of December, 1897, that the property had been sold to Carmen de la Cavada did you not?

A. When I sued him it must have been because I had such knowledge. I am not absolutely sure, but if I sued him it must have been because I knew it.

Q. Can you tell me how long before that these facts came to your knowledge?

A. No, I cannot tell you exactly.

Q. Do you know how long after that you continued your friendly relations with your brothers Francisco and Antonio, without any intention of ever bringing judicial proceedings and without discussing the matters relating to the estate? How long after that you treated each other as brothers and friends?

A. I cannot say exactly but the rupture was brought about by the inability to come to an understanding with reference to the settlement of matters of the estate. My brother Antonio and myself were compelled to take some independent action and that was the cause of the rupture.

Q. Do you remember whether the last meeting was held on the 3rd of December, 1897?

A. It may be, but I am not sure. That must appear from the minutes of the meetings.

Q. Do you remember whether at the last meeting held by you Francisco Enriquez submitted his final account and your individual account, so called by you?

411 A. I remember that we were to continue the discussion. I only remember that the matter was to be further discussed with a view to making a final partition of the property of the estate.

Mr. MONTAGNE:

Q. Do you know Mr. Rafael whether these accounts were ever judicially approved?

A. No sir, they were not.

Q. Do you know whether the approval of the accounts of Francisco Enriquez is now a contested question in the courts of justice of the city of Manila?

A. Yes sir, and it has been the subject of litigation between us for the last six years.

That is all.

The COURT: The case is closed. Counsels may present their arguments as soon as the stenographer's notes are transcribed.

I certify to the correctness of the foregoing transcription.

(Sgd.) JULIO GIMENEZ JEREZ,
Official Stenographer.

412 UNITED STATES OF AMERICA,
Philippine Islands:

In the Court of First Instance of Manila.

Civil Case No. 474.

RAFAEL ENRIQUEZ and Others, Plaintiffs,
vs.
FRANCISCO ENRIQUEZ and Others, Defendants.

Suit to Set Aside Deeds as Fraudulent and to Recover Damages.

Decision.

On March 5, 1883 Antonio Enriquez, the father of Rafael the principal plaintiff and of Francisco the principal defendant, executed to the latter a general power of attorney, or more properly speaking, what purports to be a general power of attorney. The plaintiffs allege that this instrument was null and void on the ground that the father at that time was mentally and physically incompetent. The view that the Court takes of this case, as will be shown further on in this decision, renders it unnecessary to decide this question.

On March 12, 1884, while the father was in Europe and Francisco in Manila, a notarial deed was executed by the latter, under said power of attorney, to the defendant Victoriano Reyes purporting to sell and transfer certain real estate (belonging to the father Antonio) described as numbers 76, 78, 80, 82 and 84 Calle Numancia in this City, for the express consideration of 2500 pesos.

On April 5, 1884 said Victoriano Reyes executed a notarial
413 deed wherein he purported to convey said real estate to Carmen Enriquez, one of the defendants in this proceeding, and the wife of Francisco.

On or about July 31, 1884, the father Antonio died in Europe leaving all his estate to his children, share and share alike, by a will, concerning the validity of which no dispute arises in this suit. Francisco became executor of said will or administrator of said estate, or both, and served as such until the year 1900 when Rafael, one of the plaintiffs, was appointed by one of the Manila courts, administrator in place of Francisco. Rafael as such administrator and as one of the heirs of Antonio now brings this suit against his brother Francisco, his sister-in-law Carmen, and Victoriano Reyes, to recover said real estate as part of the estate of Antonio, to set aside

the power of attorney and the two conveyances above mentioned and also sues for the rental value of the property since April 5, 1884, Carmen having been in possession during all that time and Francisco having collected the rents as her agent. Besides Rafael nearly all the other heirs of Antonio appear as plaintiffs.

A mass of testimony has been taken in this case both documental and oral. The claim of the plaintiffs is that said two conveyances were simulated and fraudulent, the result of a scheme to defraud the father in his life time and all the heirs except Francisco, after the death of the father, then in a very precarious condition, should occur. On the other hand the defendants Francisco and Carmen his wife insist that said conveyances were made in good faith, that the sum of 2500 pesos was actually paid by Reyes to Francisco
414 at the time of the conveyance and afterwards properly used by Francisco in connection with expenses of administering the estate, and that the like sum of 2500 pesos was actually paid by Carmen out of her personal funds to Reyes when the latter executed the deed to her.

On this question of good faith or bad faith must rest the decision of this case. I have no doubt whatever that the defendant Reyes, called as a witness by the plaintiffs, told the exact truth and I am willing to decide this very important litigation upon his testimony alone. Reyes swears that he never paid one centavo when he received the first conveyance from Francisco and that he never received one centavo when he executed the second deed to Carmen; that he acted merely to please Francisco; in other words Reyes admits that he was what is known colloquially in the United States as a "dummy" and in Spain as a "muñeco" (male doll). The whole demeanor of Reyes when on the witness stand impressed me as that of a man who had decided to state the exact facts and to conceal nothing. The court, therefore, believing Reyes' story to be true, is obliged to find for the plaintiffs. Mr. Chicote, who zealously and brilliantly represented the interests of Francisco and Carmen Enriquez, argued that Reyes ought not to be allowed to contradict positive statements set forth with all the legal formality of a notarial instrument; or that even if he be permitted to so state the court should refuse to accept them as true. But there are two reasons, according to my view, why such a ruling would be illegal and incorrect. In the first place, Reyes was not under oath when he took part in those notarial instruments. In the second place, the present plaintiffs were not parties to either of said in-
415 struments, had no knowledge of their existence until along afterwards, and it would be a very harsh and unjust law which would permit two people by entering into fraudulent notarial contracts to defeat the inheritance of a third person.

The plaintiff Rafael has a keen interest not only pecuniary but personal in this suit. Likewise the defendants Francisco and Carmen. The long and bitter family quarrel between these people, of which this court is bound to take judicial knowledge from the multitude of cases now pending, has so intensified the feelings of all concerned that it would have perhaps been difficult to reach a correct

decision in this case without the evidence of Reyes. He, however has no interest whatever in this suit; it can in no way affect him whatever the result be in favor of Rafael or against him. While his statements have been contradicted by the other defendants, they have not been disproved. It therefore is entirely necessary to discuss the balance of the testimony.

It only remains to fix the amount of damages which the defendants Francisco and Carmen must pay to Rafael as Administrator as being the net rental value of the property since April 5, 1884. After comparing the proofs submitted by the different witnessess on this point, I find that the gross rental value of the six years between April 5, 1884 and April 5, 1890 was 60 pesos per month; for the seven years from April 5, 1890 to April 5, 1897, was 90 pesos per month; and since April 5, 1897 a period of 5 years 4 months and 25 days, 120 pesos per month. Computing on this basis I find the total gross rental value to date to be 19,635 pesos. It is
416 fair to deduct 25 percent for taxes, insurance, repairs and other expenses incident to the ownership of real estate leased to tenants, so that the true rental value for which the defendants Francisco and Carmen are accountable is 14,726 pesos and 25 centimos, Mexican money.

It is therefore considered, adjudged and decreed by the court as follows:

(1) The deed of conveyance executed March 12, 1884 by Francisco Enriquez as attorney in fact of his father Antonio Enriquez, purporting to convey to Victoriano Reyes the property now known as numbers 76, 78, 80, 82 and 84, Calle Numancia, City of Manila, is hereby declared null and void and is hereby set aside cancelled and annulled.

(2)) The deed of conveyance executed April 5, 1884 by Victoriano Reyes purporting to convey to Carmen Enriquez the property last described is hereby declared null and void and is hereby set aside, cancelled and annulled.

(3) Said property is hereby declared to be a portion of the Estate of Antonio Enriquez, deceased, and the defendants Francisco and Carmen are hereby ordered to execute, within ten days of notification of this judgment, a deed conveying said real estate to Rafael Enriquez as administrator of the Estate of Antonio Enriquez, deceased.

(4) Said Francisco Enriquez and Carmen Enriquez his wife are ordered to pay to said Rafael as such Administrator within thirty days of being notified of this judgment, the sum of fourteen thousand, seven hundred and twenty-six pesos and 25 centimos, hereby found to be the true net rental value of said real estate from April 5, 1884 to date.

(5) Said Rafael Enriquez as such Administrator, is
417 hereby required to file with the Clerk of this Court, within five days from being notified of this judgment, a special bond in addition to any bonds heretofore given, with at least two sureties to be approved by said Clerk in the sum of 2500 pesos Mexican money, which special bond shall be conditioned on the faithful

accounting by him of the money and property involved in this proceeding: in the event of a failure for any reason on the part of said Rafael to furnish said bond, then it is ordered that Mr. J. McMicking, Clerk of this Court, shall serve as special Administrator of said money and property involved in this suit and specifically mentioned in this decision, until the further order of this court or of some other competent tribunal.; and in the event that said Clerk shall so serve, he will be entitled to execution on this judgment in lieu of said Rafael Enriquez as Administrator aforesaid; and said deed of conveyance referred to in the third paragraph of this order as required to be executed by said Francisco and Carmen, shall in that event be in favor of said McMicking as Special Administrator, grantee.

(6) It is further ordered that the defendants Francisco Enriquez and Carmen his wife pay the costs of this proceeding. No costs will be charged against the other defendant Victoriano Reyes.

(Signed) ARTHUR F. ODLIN, *Judge.*

Manila, August 30, 1902.

418 In the Court of First Instance, City of Manila.

RAFAEL ENRIQUEZ, in His Own Right and as the Administrator of the Estate of Antonio Enriquez y Sequera, Deceased; Antonio Enriquez, Trinidad Enriquez, Cayetano Enriquez, Rosario Enriquez, Gertrudis Enriquez, and José Gascon, Minor, Represented by Nazario Constantino, Guardian ad Litem, Plaintiffs,

vs.

FRANCISCO ENRIQUEZ, CARMEN DE LA CAVADA DE ENRIQUEZ, His Wife, and VICTORIANO REYES, Defendants.

Come now the defendants, Francisco *D*nriquez and Carmen de la Cavada, his wife, and allege:

1. That on the thirtieth of August, nineteen hundred and two, a judgment was rendered in the above entitled cause in favor of the plaintiffs and against the defendants, with costs;

That feeling themselves aggrieved by the said judgment, which they consider in conflict with the facts proven in this case and contrary to law, they hereby appeal from the said judgment to the Supreme Court, and ask this court to allow the said appeal, that memorandum thereof be made upon the docket and that such other proceedings be had as may be necessary.

Manila, September 29, 1902.

(Signed) ALFREDO CHICOTE.

Received copy this twenty-ninth day of September, 1902.

(Signed) A. A. MONTAGNE.

419 UNITED STATES OF AMERICA,
Philippine Islands:

In the Court of First Instance of the City of Manila.

No. 474.

RAFAEL ENRIQUEZ et al., Plaintiffs,
vs.
FRANCISCO ENRIQUEZ et al., Defendants.

Come now the plaintiffs in the above entitled action and ask the Court to strike out from the record and disallow the so-called bill of exceptions presented by the defendants herein, for the following reasons:

1. Because said proposed bill of exceptions does not contain exact copies of the documentary evidence introduced and read at the trial, but only a request that such copies may be inserted hereafter;

2. Because the said proposed bill of exceptions does not contain an exact and specific narration of the testimony of the witnesses whose names appear below, but only a request that there be inserted hereafter the stenographic notes taken during the trial, and that this proceeding is improper and unknown to the practice in these Islands:

Carmen de la Cavada
Victoriano Reyes,
Antonio Enriquez,
Trinidad Enriquez,
Rafael Enriquez
Venancio Ruiz,
Eustaquio V. de Mendoza,
Francisco Enriquez;

420 3. Because instead of inserting the documentary evidence above mentioned and a complete and exact narration of the testimony of the aforesaid witnesses, it is said in the so-called bill of exceptions presented by the defendants that said documentary proof and testimony will be attached later, promising to do so as regards the testimony of the witnesses by means of the stenographic notes, in hoes verba, taken by the official stenographer of this court, which is improper and unknown to the practice in these Islands;

4. Because the said bill of exceptions is not a bill of exceptions, but a promise on the part of the defendants that they will present the bill of exceptions within an indefinite time.

(Signed) MONTAGNE & DOMINGUEZ,
Counsel for Plaintiids.

A copy of the foregoing motion was served upon counsel for defendants on the twenty-third day of October, 1902.

(Signed) MONTAGNE & DOMINGUEZ.

Filed, this twenty-third day of October, 1902.
(Signed) R. HERES,
Assistant Clerk.

421 In the Court of First Instance, City of Manila.

Part II.

Civil Case No. 474.

RAFAEL ENRIQUEZ and Others, Plaintiffs,
vs.
FRANCISCO ENRIQUEZ and Others, Defendants.

Order of Court Concerning Bill of Exceptions.

The proposed bill of exceptions, as presented by the attorneys for the defendants, Francisco Enriquez and Carmen, his wife (they desiring to appeal this case to the Supreme Court), was presented to me for signature on October ninth, nineteen hundred and two. I at once refrred the same to the attorneys for plaintiffs, and by agreement, fifteen days time was allowed said attorneys to propose such amendments or objections as might occur to them. Within said fifteen days the said attorneys have filed three objections as follows to said proposed bill of exceptions:

First. Because said proposed bill of exceptions does not contain exact copies of the documentary evidence introduced and read at the trial, but only a request that such copies may be inserted hereafter;

Second. Because said proposed bill of exceptions does not contain an exact and specific narration of the evidence of eight witnesses (names given) but only a request that there be inserted
422 hereafter the stenographic notes taken during the trial, and that this proceeding is improper and unknown to the practice in force in these Islands;

Third. Because, instead of including the documentary evidence above mentioned, and a complete an exact narration of the testimony of the witnesses above referred to, a statement appears in the so-called bill of exceptions presented by the attorneys for the defendants that said documentary proof and testimony will be united hereafter, promising to do so; as regards the testimony of the witnesses, by means of the stenographic notes, and that proceeding is improper and unknown to the practice in force in these Islands;

Fourth. Because the socalled bill of exceptions is not a bill of exceptions, but a promise on the part of the attorneys for the defendants to the effect that they will formulate a bill of exceptions within a period of time not definitely stated;

In conditionally overruling these objections, this Court is largely influenced by two facts:

First. The decision in this case was filed just before the departure from the Philippine Islands of the Judge who presided at the trial,

and he did not return to Manila until a few days before the close of the last term of the court. It was a physical impossibility for the judge to have properly studied a bill of exceptions in a case so important and difficult as the one now under consideration, within the few days between his return to Manila and the first day of the present term of the Court. The other reason for overruling these objections is a desire to avoid the destruction of the right of
423 appeal upon grounds purely technical, so long as there be a compliance with the spirit of the law as understood by this Court.

After careful consideration of these objections, and examining the proposed bill of exceptions as submitted, I have decided to approve the same, on conditions based on the objections set forth by the attorneys for the plaintiffs. It is further ordered that said proposed bill of exceptions be returned to the attorneys for the defendants, and that there be included therein exact copies of the documentary evidence introduced and read at the trial; it is further ordered that said proposed bill of exceptions shall contain an exact and specific narration of the evidence of the eight witnesses whose names are as follows:

Carmen de la Cavada
Victoriano Reyes
Antonio Enriquez
Trinidad Enriquez
Rafael Enriquez
Venancio Ruiz
Eustaquio V. de Mendoza
Francisco Enriquez

Thirty days from this date will be allowed for this purpose; upon the re-presentation of said proposed bill of exceptions to me in the form herein designated the same will be duly signed and approved.

Manila, October 28, 1902.

(Signed) ARTHUR F. ODLIN, *Judge.*

424 In the Court of First Instance of the City of Manila, Philippine Islands.

Civil Case No. 474.

RAFAEL ENRIQUEZ and Others, Plaintiffs,
vs.
FRANCISCO ENRIQUEZ and Others, Defendants.

Order Extending Time in Which Attorneys for Plaintiffs Must Present Objections to Bill of Exceptions Proposed by Attorneys for Defendants.

MANILA, *December* 11, 1902.

The defendants' attorneys having presented to the Court a proposed bill of exceptions in the above entitled cause, and the Attorneys for the Plaintiffs desiring to present objections to said

proposed bill of exceptions, it is ordered that they may be allowed extra time, to-wit, until the thirty-first day of this month, in which to do so.

(Signed) ARTHUR F. ODLIN, *Judge.*

425 UNITED STATES OF AMERICA,
Philippine Islands:

In the Court of First Instance of Manila.

RAFAEL ENRIQUEZ and Others, Plaintiffs,
vs.
FRANCISCO ENRIQUEZ and Others, Defendants.

Come now the plaintiffs in the above entitled cause, and earnestly object to and protest against the alleged bill of exceptions presented by defendants herein, and against the approval thereof by this court, for the following reasons:

1. Because the said bill of exceptions contains only a short, imperfect, incomplete, misleading and erroneous narration of the verbal testimony introduced at the hearing of said cause, and eliminates therefrom the most material and pertinent part of the facts, as well as ignores in its entirety the evidence of a large number of the witnesses, to-wit:

Vicente Collado
Francisco Amarquez
Tomás Rodriguez
Bonifacio Briones
Arcadio Arellano
José Guevara
Bruno Villamor
Dr. Altman
Emilio Martinez Llanos
Manuel Xeres Burgos
Ernesto del Rosario
A. A. Montagne

2. Because if defendants intended to appeal to the Supreme Court, on the ground that the evidence is insufficient to
426 sustain the decision of this court, it becomes absolutly essential and necessary that they insert in their bill of exceptions a narration of the substance and essence of all the testimony in the case, in order to enable the Supreme Court to determine whether or not such evidence is sufficient, a determination which cannot possibly be made by the Supreme Court without having such evidence before it.

3. Because the alleged bill of exceptions presented by the defendants is such, that in order that this case may be presented to the Supreme Court for its determination, so that substantial justice may be done to the parties hereto, it seems to have become necessary for the plaintiffs herein to draft and prepare a complete bill of ex-

ceptions for defendants without regard to or aid from the so-called bill of exceptions presented by defendants.

4. Because plaintiffs object to and protest against any order or requirement made upon plaintiffs, requiring them to draft and prepare a complete bill of exceptions for said defendant-, the said defendant- being aided in this action by learned and prominent attorneys, who are charged with the duty and obligation of drafting and preparing their own bill of exceptions.

5. Because the sufficiency or insufficiency of the evidence to warrant the decision of this court cannot be discussed before this court or before the Supreme Court at this date, for the reason that the evidence in this action is not subject to review by the Supreme Court, defendants herein not having presented nor filed a motion for a new trial for the purpose of presenting the evidence
427 herein to the Supreme Court for review, as required by subdivision 3 of Section 497 of the Code of Civil Procedure.

6. Because the said bill of exceptions is wrongfully and erroneously designated such, for the reason that from the record in said cause it appears that no exceptions of any kind or nature whatsoever, were taken by defendants during the course of the trial thereof, nor at any other time, nor at all, excepting one insignificant exception taken by defendants against the admissibility of an unimportant document.

7. Because no exception of any kind or nature whatsoever was taken by defendants against the judgment of this court at the time of the making of such judgment, or at any other time, or at all, as required by section 143 of the Code of Civil Procedure.

8. Because the omission on the part of the defendants to except to any order, ruling or judgment of this court must be conclusively presumed to be a waiver of any exception thereto, and such ruling, order or judgment not excepted to cannot be incorporated into a so-called bill of exceptions.

9. Because the so-called bill of exceptions is not a bill of exceptions, as it contains no exceptions at all, it being merely a rambling selection of part of the proceedings in said cause.

10. Because the evidence taken at the hearing before this court cannot be presented to the Supreme Court for review, for the reason that the sufficiency or insufficiency thereof was not duly or properly presented to this court by motion for a new trial, as required by section 497 of the Code of Civil Procedure, and particularly by subdivision three thereof.

428 Wherefore plaintiffs pray that the alleged bill of exceptions presented by defendants be not approved, and that the same be struck from the files of this court.

(Signed) HARTIGAN, MARPLE, SOLIGNAC, McCABE & GUTIERREZ,

(Signed) MONTAGNE & DOMINGUEZ,

Attorneys for Plaintiffs.

Filed this second day of February, 1903.

(Signed) J. McMICKING,

Clerk of the Court of First Instance of Manila.

Indorsed: Copy of this motion was sent to counsel for defendants, January 31, 1903.

(Signed) MONTAGNE & DOMINGUEZ.

(Title of Court and Cause.)

It is hereby ordered that execution issue upon the judgment in the above entitled cause against the defendants Francisco Enriquez and Carmen de la Cavada de Enriquez, unless the said defendants give a sufficient and satisfactory bond in favor of the plaintiffs, in the sum of twenty thousand pesos, local currency, to secure the payment of the amount awarded in the said judgment, and such damages as plaintiffs may incur by reason of the appeal from the said Judgment by the defendants, in case that such appeal be duly prosecuted.

429 This order shall take effect upon its being filed in the office of the clerk of the Court of First Instance of Manila.

(Signed) ARTHUR F. ODLIN,
Judge of the Third Judicial District and Formerly of the Court of — Instance of Manila.

LINGAYEN, *May* 14, 1903.

Indorsed: Filed this sixteenth day of May, nineteen hundred and three, at eight A. M.

(Signed) J. McMICKING, *Clerk.*

On this sixteenth day of May, nineteen hundred and three, copy of the foregoing order was sent to the parties, for their information.

(Signed) J. McMICKING,
Clerk of the Court of First Instance of Manila.

(*Telegram.*)

Arthur F. Odlin, Judge:

Sutro desires to know how much time you will give Francisco Enriquez in which to file a bond.

(Signed) J. McMICKING, *Clerk.*

(*Telegram.*)

LINGAYEN, *May* 16, 1903.

McMicking, Clerk Court First Instance, Manila:

I have signed order suspending writ of execution in Enriquez case, notify Montagne and Sutro.

ODLIN, *Judge.*

430 (Title of Court and Cause.)

I, R. Heres, Assistant Clerk of the Court of First Instance of Manila, do hereby certify that the testimony of the following wit-

nesses given at the trial of the above entitled cause, is united to the record of this case:

Vicente Collado, Francisca Marquez, Tomás Rodriguez, Bonifacio Briones, Arcadio Arellano, José Guevara, Bruno Villamor, Dr. Altman, Emilio Martinez Llanos, Manuel Xeres Burgos, Ernesto del Rosario, A. A. Montagne.

In witness whereof I sign these presents, in Manila, this eighteenth day of May, 1903.

(Signed) R. HERES,
Assistant Clerk of the Court of
[SEAL OF COURT.] *First Instance of Manila.*

(Title of Court and Cause.)

Come now the plaintiffs in the above entitled cause and hereby object and protest against the bill of exceptions presented herein, for the reason that the said bill of exceptions does not contain the testimony or a narration of the testimony of the following witnesses, to-wit:

Vicente Collado, Francisca Marquez, Tomás Rodriguez, Bonifacio Briones, Arcadio Arellano, José Guevara, Bruno Villamor, Dr. Altman, Emilio Martinez Llanos, Manuel Xeres Burgos, Ernesto del Rosario, A. A. Montagne.

431 All of which said witnesses testified in the said cause at the trial thereof.

The plaintiffs further ask the court that the following documents, appearing in the record of the said cause, be attached to the bill of exceptions:

1. Plaintiffs' objection to the last bill of exceptions presented by defendants, and which is in the record.
2. This motion.
3. The stipulation of March 6, 1903, hereto attached.
4. This motion is based upon the aforesaid stipulation, and particularly upon the last paragraph thereof.

(Signed) MONTAGNE & DOMINGUEZ,
Counsel for Plaintiffs.

(Title of Court and Cause.)

In Civil Case No. 474, counsel for the respective parties appeared before me in Manila, this sixth day of March, 1903, and agreed that the testimony of the witnesses Carmen de la Cavada, Victoriano Reyes, Francisco Enriquez, Luis Quintos, Pascual Reyes, Carmen Gonzales, Viuda de Badolato, Agueda Esteban, Rufino Bernardo, Antonio Enriquez, Trinidad Enriquez, Rafael Enriquez, Enrique Barrera, Mariano Garcia del Rey, Venancio Ruiz, Eustaquio V. de Mendoza, Rafael, Antonio and Francisco Enriquez, as they appear from the original notes, be substituted for the extracts thereof attached to the bill of exceptions.

This stipulation only extends to the testimony of the witnesses

above mentioned, the same being subject to any written objections which have or might be presented by the appellee.

Manila, March 6, 1903.

(Signed) MONTAGNE & DOMINGUEZ.
(Signed) ALFREDO CHICOTE.

432 *Order.*

Upon examination of the foregoing bill of exceptions, I am of opinion that the same has been prepared in accordance with the law and the stipulation of counsel for the respective parties.

Wherefore I approve the same, and sign these presents, at Lingayen, this twentieth day of May, 1903. This order shall take effect upon its presentation in the office of the clerk of the Court of First Instance of Manila.

(Signed) ARTHUR F. ODLIN,
Judge of the Third Judicial District and formerly of the Court of First Instance of Manila, Part II.

Indorsed: Filed, this twenty-second day of May, nineteen hundred and three, at twelve-twenty p. m. (Signed) J. McMicking, Clerk.

I hereby certify that on this twenty-second day of May, 1903, copies of the foregoing order were sent to the attorneys for the respective parties.

(Signed) J. McMICKING.

(*Telegram.*)

LINGAYEN, *May* 23, 1903.

McMicking, — Court of First Instance, Manila:

Why does not Sutro inform me how much time he desires to file bond. Do not send in request case (Enriquez case) to Supreme Court until I telegraph for it again. Show this telegram to Montagne.

ODLIN, *Judge.*

Indorsed: Please let Judge Odlin know that Mr. Sutro is in Baguio, on business, and begs to have the matter adjourned until his return.

(Signed) P. & S. 5/26/03.

433 Indorsed: Filed, this twenty-sixth day of May, 1903, at eight-thirty A. M. (Signed) J. McMicking, Clerk.

(*Telegram.*)

MANILA, *May* 26, 1903.

Odlin, Judge, Lingayen:

Lawrence informs me that Sutro is in Baguio. Have showed telegram to Montagne, and sent a copy to Chicote.

McMICKING, *Clerk.*

(*Telegram.*)

LINGAYEN, *May* 26, 1903.

McMicking, Clerk of Court First Instance, Manila:

Unless Francisco Enriquez files the bond with sureties approved by one of the Manila judges before June fifth, in amount fixed by me, you may issue execution. Notify Francisco Enriquez, Sutro and Chicote contents of this telegram at once. I leave in a few days for Union Province.

ODLIN, *Judge.*

Indorsed: Filed, this twenty-seventh day of May, 1903, at 9:10 A. M. J. McMicking, Clerk.

Thereafter, to-wit, on the tenth day of June, nineteen hundred and three, the above entitled cause was taken to the Supreme Court, upon the aforesaid bill of exceptions, which was received therein, on the same day.

Thereafter, and on the twenty-second day of April, 1904, the Supreme Court of the Philippine Islands rendered the following decision:

434 THE UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

RAFAEL ENRIQUEZ et al., Plaintiffs and Appellees,

vs.

FRANCISCO ENRIQUEZ et al., Defendants and Appellants.

APRIL 22, 1904.

Decision.

There has been no motion for a new trial in this case. Consequently, we cannot review the evidence or re-try any issue of fact, but can simply decide the questions of law raised by the bill of exceptions. (Code of Civil Procedure, Section 497.) For this purpose we must rely solely upon facts found by the trial court in connection with those alleged in the pleadings.

One of the questions presented by the complaint is the nullity of the power of attorney executed by Don Antonio Enriquez in favor of Francisco Enriquez, March 5, 1883. The plaintiffs allege that this power of attorney is false and expressly demand that it be annulled, upon the ground that it was not really executed by Antonio Enriquez, who at the date in question, and before and after it, was mentally and physically incapable of executing the
435 said power of attorney.

The judgment appealed does not decide this question nor does it contain any finding of fact with reference thereto which might serve us as a basis for the decision of this question. It is true that the

court apparently did not deem it necessary to decide this question in view of the fact that he had declared the nullity of the deeds of sale of the pro-erty which was the object of the litigation. But it is also true that this declaration of nullity is based upon other causes different from the nullity of the power which authorized Don Francisco Enriquez to sell the property on behalf of Antonio Enriquez. Upon the hypothesis that this court might not agree with the trial court as to the sufficiency of the causes upon which he declared that sale to be void, the plaintiffs would be prejudiced without fault attributable to them, because we could not decide the question raised as to the nullity of the power of attorney, the court having failed to make a finding as to the facts proven upon this point. Supposing that the plaintiffs had proved the falsity of the power of attorney, and even though the other causes of nullity alleged in the complaint might not be regarded as sufficient, this alone would be enough to carry with it the nullity of a sale made by virtue of the power of attorney in question. This being so, it would be evidently unjust to deprive the plaintiffs of this ground of their action, the success of which might perhaps depend upon the decision of this point, which in turn rests upon facts as to which there is no finding in the decision of the court by which we can determine whether they were or were not proven at the trial.

436 The defendants in turn alleged in their answer that the sale of which the nullity was in question, and which took place eighteen years ago, was a legal conveyance known to the parties in interest, who expressly confirmed it more than four years ago.

This allegation contains a defense which if proved, might perhaps be sufficient to offset the action brought by the plaintiff. Nevertheless, the judgment appealed contains no finding of fact concerning the alleged knowledge of the plaintiffs as to the sale in question for more than four years, or as to the confirmation of the said sale alleged to have been expressly made by the plaintiffs. This prevents us from deciding this point of the question on account of the insufficiency of the data before us. It is the duty of the court to file in writing his findings upon issues of fact raised by the pleadings. (Section 133, Code of Civil Procedure.) The findings of the court constitute the sole basis upon which we can decide the case when, as in this instance, we are unable to review the evidence taken at the trial. Without such a finding by the court it is impossible for us to arrive at any conclusion of law or to render a decision of affirmation or reversal.

For the reasons stated the judgment below is deficient and is not in harmony with the issues at the trial, and must therefore be set aside.

Having reached this conclusion, it is not necessary for us to decide whether Judge Odlin could or could not legally render the judgment appealed under the special circumstances of its rendition. Whatever might be the conclusion reached upon this

437 point, the judgment could not be sustained, for the reasons above indicated.

The judgment below is therefore set aside and the case will be returned to the trial court for the rendition of a proper judgment, by including therein the findings of fact and conclusions of law omitted in the judgment before us upon the points above indicated, without prejudice to the evidence already taken, which we declare to be valid, and without prejudice to the admission of such additional evidence as the parties may desire to present. No costs will be allowed in this instance. So ordered.

(Signed) VICTORINO MAPA.

We concur:

(Signed) C. S. ARELLANO.
" FLORENTINO TORRES.
" JOHN T. MACDONOUGH.
" E. FINLAY JOHNSON.

Thereafter, towit: On the thirtieth day of April, 1904, a final judgment was rendered in the Supreme Court, as follows:

(Title of Court and Cause.)

This court having regularly acquired jurisdiction to try the above entitled cause, which was submitted by both parties for decision, and after consideration of the same by this court, of the record and proceedings therein, its decision and order for judgment having been filed on the twenty-second day of April, nineteen hundred and four;

It is hereby ordered and decreed that the judgment of the Court of First Instance of the City of Manila dated August thirtieth, nineteen hundred and two, and from which the appeal was taken,
438 be and the same is hereby set aside, and the case remanded to the trial court from the rendition of a proper judgment, including therein the findings of fact and conclusions of law omitted in the judgment appealed from upon the points indicated in the decision, without prejudice to the evidence already taken, which is declared to be valid, and without prejudice to the admission of such additional evidence as the parties may desire to present. No costs are allowed to either party in this instance.

(Signed) J. E. BLANCO,
Clerk of the Supreme Court of the Philippine Islands.

Thereafter, to-wit, on the fourth day of May, nineteen hundred and four, the case was sent to the court below, by the Clerk of the Supreme Court, together with a certified copy of the decision and of the judgment rendered by the said court, for the purpose therein indicated.

Thereafter, to-wit, on the twelfth of May, 1904, the clerk of the Court of First Instance of the city of Manila notified the parties in the above entitled cause that the judgment rendered by the said Court of First Instance had been set aside by the Supreme Court, and the case remanded thereto for a new trial.

Thereafter, to-wit, on the fifteenth of May, 1905, Messrs. Bishop, Ingersoll & O'Brian, as counsel for the plaintiffs, served notice on the attorneys for defendants that on Saturday, May twenty-second, nineteen hundred and five, at eight o'clock a. m., or as soon thereafter as possible, they would ask the Court to consider and decide the following motion:

439 (Title of Court and Cause.)

Come now the above named plaintiffs, through their attorneys Bishop, Ingersoll & O'Brian, and respectfully inform the court that the plaintiff Antonio Gascon is a minor; that Concepción Enriquez, the mother of the said minor, is now dead, and his father is now absent from the Philippines; that in order that the interests of the said minor be duly represented in this action it is necessary to have a guardian ad litem appointed; that Nazario Constantino, of Manila, is a fit person to be appointed as guardian ad litem for the said minor.

Wherefore your petitioners respectfully ask that the Court make an order appointing the said Nazario Constantino as guardian ad litem of the said minor José Gascon, and that the title of this case be so amended as to conform with the change introduced by the appointment of the said guardian ad litem.

(Signed) BISHOP, INGERSOLL & O'BRIAN,
Counsel for Plaintiffs.

Indorsed: Filed, May fifteenth, 1905, at eleven a. m. (Signed) José Casimiro, Assistant Clerk.

Thereafter, to-wit, on the fifteenth of May, Messrs. Bishop, Ingersoll duly entered their appearance in this case, as counsel for plaintiffs, and asked the Court for permission to file a second amended complaint, which said second amended complaint is in the words and figures following, to-wit:

THE UNITED STATES OF AMERICA,
Philippine Islands:

In the Court of First Instance of the City of Manila.

440 RAFAEL ENRIQUEZ, in His Own Right and as Administrator of the Estate of Antonio Enriquez y Sequera, Deceased; Antonio Enriquez, Trinidad Enriquez, Cayetano Enriquez, Rosario Enriquez, Gertrudis Enriquez, and Antonio Gascon, Minor, Represented by Nazario Constantino, Guardian ad Litem, Plaintiffs,

vs.

FRANCISCO ENRIQUEZ, CARMEN DE LA CAVADA DE ENRIQUEZ, His Wife, and Victoriano Reyes, Defendants.

Second Amended Complaint.

Come now the plaintiffs, and with the permission of the Court first obtained, file this their amended complaint, and allege:

1. That Rafael Enriquez is now, and has been during the year last past, the duly appointed, qualified and acting Administrator of the estate of Antonio Enriquez, deceased;

2. That the said Nazario Constantino, on the twentieth of May, nineteen hundred and five, by order of the Court above mentioned, was appointed in the above entitled action as guardian ad litem of the minor Antonio Gascon;

3. That the said Antonio Enriquez y Sequera, deceased, died, leaving a will, on or about the month of July, 1884, in the Kingdom of Spain, leaving all his property to his children, share and share alike;

4. That the defendant Francisco Enriquez is the oldest surviving son of the said Antonio Enriquez y Sequera, deceased;

441 5. That the plaintiffs and the defendant Francisco Enriquez are the only surviving children and heirs of the said Antonio Enriquez y Sequera, deceased, with the exception of Carmen Enriquez, the surviving daughter of the said deceased, who is now absent in the Kingdom of Spain, and the plaintiff Antonio Gascon, who is the only surviving child of Concepción Enriquez, one of the daughters who survived the said Antonio Enriquez y Sequera, who is now dead;

6. That the defendant Carmen de la Cavada de Enriquez, is now, and has been at all times, herein mentioned, the wife of the defendant Francisco Enriquez;

7. That on the fifth day of March, eighteen hundred and eighty-three, prior thereto and until the time of his death, as alleged, Antonio Enriquez y Sequera, suffered and did suffer from a physical and mental infirmity of such a nature that it continuously deprived him of the capacity of transacting, and of ordering the transaction of, ordinary business;

8. That on or about the fifth day of March, 1883, the defendant Francisco Enriquez, with intent to deceive and defraud the said Antonio Enriquez y Sequera and his heirs, forged and fabricated, and caused the forging and fabrication, of a certain document, copy of which is not attached for the reason that the original is not in the possession of the plaintiffs herein, nor of any of them, in which document it was stated, in terms, that the said Antonio Enriquez y Sequera granted a general and special power and authority in favor of the defendant Francisco Enriquez, making the said Francisco Enriquez his attorney in fact, and authorizing him to repre-

442 sent the said Antonio Enriquez y Sequera in all matters and business in which the said Antonio Enriquez y Sequera might be interested, and conferring upon the defendant Francisco Enriquez the most ample power that could be conferred upon an attorney in fact;

9. That the said Antonio Enriquez y Sequera did not execute, and did not at any time authorize the execution of said document, and said document has been at all times, and is, false, forged, null and of no value whatsoever;

10. That immediately after the death of the said Antonio Enriquez y Sequera, on or about the thirty-first day of July, 1884, the said defendant, Francisco Enriquez, became the executor and admin-

istrator of the estate of the said Antonio Enriquez y Sequera, deceased, and from said date continued acting as such executor and administrator until about the latter part of the year nineteen hundred;

11. That on the twelfth day of March, 1884, for a long time prior thereto and at the time of the simulated sale made by defendant Francisco Enriquez to defendant Victoriano Reyes, as hereinafter stated, the said Antonio Enriquez y Sequera, deceased, was absent from the city of Manila, and was temporarily residing in the Kingdom of Spain, where he continued to so temporarily reside until the time of his death;

12. That on the twelfth day of March, 1884, for a long time prior thereto, and at the time of the simulated sale made by the defendant Francisco Enriquez, to defendant Victoriano Reyes, as hereinafter stated, the said Antonio Enriquez y Sequera, deceased, was the sole and exclusive owner, in the possession and entitled to the
443 possession of one undivided half, and the plaintiffs, with the exception of the minor José Gascon, together with the defendant Francisco Enriquez and the said Carmen Enriquez, and Concepción Enriquez, the mother of the minor José Gascon, were the exclusive owners of another undivided half of that certain piece of real property situated in the city of Manila, Philippine Islands, at Calle Numancia, now commonly designated as Numbers 76 to 84 Calle Numancia, bounded on the front thereof by the said Calle Numancia and extending to the lands of Manuel Genato and bounded on the right side of its entrance by the lands of Manuel Genato, and on the left side of its entrance by Calle Urbiztondo. That the said property is 17.80 meters long by 14.40 meters deep, having a superficial area of 255.03 square meters, more or less;

13. That the said plaintiffs, together with the defendant Francisco Enriquez and the said Carmen Enriquez, since the death of the said Concepción Enriquez, in the year 1900, have been and at present are the exclusive owners of one undivided half of the said property;

14. That on the above mentioned dates the said property was of the value of about twenty thousand pesos, and that the said property is now of the value of forty thousand pesos, more or less;

15. That on or about the twelfth of March, 1884, the defendant Francisco Enriquez y Sequera, did fraudulently and with intent to cheat and defraud the said Antonio Enriquez y Sequera, deceased, and the plaintiffs in this case, execute an instrument of con-
444 veyance, and did so fraudulently and with intent to cheat as aforesaid, convey to the defendant Victoriano Reyes, all of the property aforesaid;

16. That the said conveyance was fraudulently executed by the said defendant Francisco Enriquez, was not a genuine conveyance, but was a simulated one, entered into by and between the said Francisco Enriquez and the said Victoriano Reyes, for the purpose of defrauding and cheating the said Antonio Enriquez y Sequera, deceased, and the plaintiffs herein;

17. That at no time did the plaintiffs, or any of them, authorize

the defendant Francisco Enriquez, in any menner, to sell or dispose of their interest in the said property;

18. That the defendant Victoriano Reyes or anyone else did not pay any consideration whatever to the defendant Francisco Enriquez, or to anyone else, for the conveyance aforesaid, or for the said property;

19. That on or about the fifth day of April, 1884, and within a month after the execution of the conveyance aforesaid, the defendant Victoriano Reyes, at the instance and at the request of defendant Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, and for the purpose of cheating and defrauding the said Antonio Enriquez y Sequera, deceased, and the plaintiffs herein, did execute an instrument of conveyance, and did convey to the said defendant, Carmen de la Cavada de Enriquez, all of the property aforesaid;

20. That the said conveyance, executed by the defendant Victoriano Reyes, to the defendant Carmen de la Cavada de Enriquez, was not a genuine conveyance, but was a simulated one, and
445 made and executed for the purpose of defrauding and cheating the said Antonio Enriquez y Sequera, deceased and the plaintiffs herein;

21. That the said defendant Carmen de la Cavada de Enriquez, did not, nor did anyone else, pay to the said Victoriano Reyes, or to anyone else, any consideration whatever for the conveyance last aforesaid, nor for the property aforementioned;

22. That ever since the fifth day of April, 1884, the defendants Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, have been in the exclusive possession of the property aforesaid, and of the whole thereof, and have been collecting all the rent and profits of said property, and have ever since, and are now, appropriating the whole of said rents and profits to their own exclusive use;

23. That the value of the rents and profits of the property aforesaid has been, from the year 1884 to the year 1890 the sum of one hundred pesos per month; that the value of the said rents and profits from the year 1890 to the year 1897 has been and is the sum of one hundred and fifty pesos per month; that the value of the said rents and profits for the year 1897 to the present time has been and is the sum of two hundred pesos per month.

Wherefore plaintiffs pray judgment against the defendants, and against each of them:

1. That the alleged power of attorney, claimed to have been executed by Antonio Enriquez y Sequera to Francisco Enriquez, be declared false, fraudulent, null and void;

2. That the conveyance executed by the defendant Francisco Enriquez to the Defendant Victoriano Reyes be set aside and declared null and void;

446 3. That the conveyance executed by the defendant Victoriano Reyes to the defendant Carmen de la Cavada de Enrequez be set aside and declared null and void;

4. That one undivided half of the said property be declared to be the property of the estate of Antonio Enriquez y Sequera, deceased,

and that the other undivided half of the said property be declared to be the property of the plaintiffs herein, together with the defendant Francisco Enriquez and Carmen Enriquez;

5. That it be adjudged and declared that the defendants, and each of them, have no exclusive right, title or interest in and to said property or to any part thereof;

6. That plaintiffs recover of and from the defendants, Francisco Enriquez and Carmen de la Cavada de Enriquez, the value of the rents and profits of the said property, at the rate of one hundred pesos per month, from the year 1884 to the year 1890; at the rate of one hundred and fifty pesos per month, from the year 1890 to the year 1897; and at the rate of two hundred pesos per month from the year 1897 to date;

7. For such other and further relief as the court may deem equitable and just;

8. For the costs of this action.

(Signed) BISHOP, INGERSOLL & O'BRIAN,
Attorneys for Plaintiffs.

Received copy this fifteenth day of May, nineteen hundred and five.

CHICOTE, MIRANDA AND SIRRA.

447 Indorsed: Filed, May fifteenth, 1905, at eleven a. m. (Signed) José Casimiro, Assistant Clerk.

Thereafter, to-wit, on the twentieth of May, the Court made the following order:

(Title of Court and Cause.)

Present: Attorneys O'Brian and Gibbs, in behalf of the respective parties in this action; and upon hearing their arguments it is ordered that the petition herein filed for the appointment of Nazario Constantino as guardian ad litem of the minor José Gascon, be and the same is hereby granted. It is further ordered that Mr. Constantino be notified of his appointment and the amended complaint, filed by Messrs. Bishop, Ingersoll & O'Brian, is hereby allowed.

It is so ordered.

Manila, May twentieth, nineteen hundred and five.

(Signed) A. S. CROSSFIELD, *Judge.*

On this twenty-second day of May, nineteen hundred and five, notice of the above order was sent to the parties by registered mail.

(Signed) JOSÉ CASIMIRO,
Assistant Clerk.

448 Thereafter, to-wit, on the 25th of May, 1905, the following amended answer was filed in the Court of First Instance of the City of Manila, in the above entitled cause:

THE UNITED STATES OF AMERICA,
Philippine Islands:

In the Court of First Instance of the City of Manila.

Cause No. 474.

RAFAEL ENRIQUEZ and Others, Plaintiffs,
vs.
FRANCISCO ENRIQUEZ, CARMEN DE LA CAVADA, and VICTORIANO REYES, Defendants.

Amended Answer.

Come now the defendants, through their attorneys, Alfredo Chicote, A. D. Gibbs and H. D. Gale, and answering the complaint allege:

1. That they deny all and each of the allegations not hereinafter admitted;

2. That they specifically deny that Rafael Enriquez was the administrator of the estates of Antonio Enriquez and Ciriaca Villanueva, and allege that he had no authority whatsoever to maintain this action and has no such authority now;

3. That Francisco Enriquez is at present, and was at the time of the filing of the complaint, the only testamentary executor and administrator, duly appointed as such, of the estate of Antonio Enriquez, deceased;

4. That they admit the allegations contained in Paragraph ten of the complaint;

449 5. That by a public instrument numbered one hundred and eight, executed on the 27th of December, 1881, there was sold at public auction to Antonio Enriquez, for the sum of P1367.00, local currency, the following described property:

"The house and lot on the Riverita, on the corner of Calle Barraca, District of Binondo, bounded on the front thereof by the said Riverita, on the right by the land of Ceferino Hill; on the left, by the said Barraca, and on the back by the land of Manuel Callejas."

The present description of the property is as stated *on* Paragraph 5 of the complaint.

6. That the property in question formerly belonged to the estate of Antonio de Paula Enrique*q*, a brother of Antonio Enriquez; that on the 20th of December, 1888, the said property was sold at public auction for the sum of ?1367.00, local currency, to Antonio Lorenzo Barretto, he being the highest bidder; that the said purchaser tran*e*ferred and assigned all his rights and interest therein to Antonio Enriquez, in whose favor a judicial conveyance was executed on the aforesaid 27th day of December, 1881;

7. That by a public instrument number one hundred and thirty, executed on the 5th of March, 1883, before the notary public of this city, Miguel Torres, the said Antonio Enriquez y Sequera freely and solemnly executed to the defendant Francisco Enriquez the general

power of attorney referred to in the complaint, copy of which said power of attorney, marked Exhibit "A", is attached to this answer;

8. That the defendant Francisco Enriquez, as attorney in fact for his father Antonio Enriquez as aforesaid, by a public instrument numbered one hundred and seventy-two, executed on the
450 12th of March, 1884, before the notary public of this city, Miguel Torres, actually sold and transferred to Victoriano Reyes, for the sum of twenty-five hundred pesos, Mexican currency, the property in question, which said sum the defendant paid to his principal Antonio Enriquez y Sequera. Copy of the aforesaid conveyance marked Exhibit "B" is hereto attached and made a part of this answer;

9. That Victoriano Reyes, by a public instrument numbered one hundred and ninety-seven, executed on the 5th of April, 1884, before the notary public of this city, Eustaquio Villafranca de Mendoza, actually sold and conveyed the property in question to the defendant Carmen de la Cavada de Enriquez, for the sum of twenty-five hundred dollars, Mexican currency. A copy of the said conveyance, marked Exhibit "C", is hereto attached and made a part of this answer.

That from the 22nd of April, 1891, until the 27th of November, 1897, inclusive, there was had between plaintiffs and the defendant Francisco Enriquez, as testamentary executor and administrator of the estate of the deceased Antonio Enriquez y Sequera a liquidation of account and settlement of all claims and difference then existing between the said parties, in which said liquidation and settlement the defendant Carmen de la Cavada, as successor in interest of George Enriquez, one of the heirs, took part; that the said liquidation and settlement is evidenced by the following public instruments:

First. Public instrument numbered two hundred and eleven, executed on the 22nd of April, 1891, before the notary public Abraham Garcia Garcia;

Second. Public instrument numbered five hundred and thirty-seven, executed on the 25th of August, 1896, before the notary public José Engracio Monroy Torres;

451 Third. Minutes of the meeting held by Francisco, Rafael and Antonio Enriquez, before the Commissioner and Petitioner José Moreno Lacalle, on the 16th of August, 1897;

Fourth. Idem id. of the third of November, 1897;

Fifth. Public instrument numbered blank, executed on the 27th of November, 1897, before the notary public José Engracio Monroy.

That paragraph five of the minutes of the 3rd of November, 1897, referred to above, is literally as follows:

"Rafael and Antonio Enriquez having stated that it was their understanding that the house on Calle David numbered nine, and the property on La Barraca, both situated in the District of Tondo of this city, and the house on Calle Baluarte or Fundicion, belonged to the estate, and requested that the same be included in the inventory, Francisco Enriquez explained that the house on Calle David numbered nine had been sold by his deceased father to his, Don Francisco's, wife, for the sum of eight thousand dollars, local cur-

rency, as shown by a public instrument executed before the notary public Miguel Torres on the 27th of March, 1883, copy of which instrument of conveyance he submitted for examination; that the house on Calle Fundicion had also been sold by his father, on a date which he cannot remember, for lack of data, and that the property on La Barraca and Riverita was sold by him, Francisco, as attorney in fact for his father, to Victoriano Reyes, on the 12th of March, 1884, for the sum of twenty-five hundred dollars local currency, which said sum, together with five hundred dollars more, he remitted to his father for his personal expenses, through
452 Manuel Enriquez, as shown by a letter from the latter, which, together with a copy of the instruments of conveyance, he submitted for their inspection. It was thereupon agreed to withdraw the request that the property on Calle David numbered nine be included in the inventory; to withdraw also the request that the property on La Barraca be included, the sale of the same having been satisfactorily proven; provided, however, that Don Francisco be not given credit for the amount of the purchase-price until he proved that he sent an equal amount to his father; and with reference to the house on Calle Fundicion, the parties agreed to postpone the matter until further data could be obtained with reference thereto, and then take whatever action might be proper;

That Paragraph 2 of the debit of the defendant, Francisco Enriquez, as set out in the public instrument of the 27th of November above referred to, is literally as follows:

"For the price of the property on La Riverita, District of Binondo, belonging to the deceased Antonio Enriquez, sold on the 12th of March, 1884, by Francisco Enriquez, as his attorney in fact,—P2,500."

That by virtue of the said liquidation and settlement, and particularly by virtue of the said minutes of the meeting held on the 3rd of November, 1897, and the instrument of the 27th of the said month and year, the claim which is the subject of the complaint was expressly settled and determined, by the payment of two thousand five hundred pesos by the defendant Francisco Enriquez to the plaintiffs, by charging the said amount to his account as
453 executor and administrator as aforesaid, which said payment was made at the amicable request of the plaintiffs to avoid further litigation, notwithstanding the fact that he had paid to his father the proceeds of the said property at the time it was sold, having thus twice paid the price;

11. That the liquidation and settlement made as set out in the said instrument are still in full force and effect and that the plaintiffs have not attempted to attack or impugn the same, and that the proceeds of the sale of the said property were actually received by the estate of Antonio Enriquez and accepted by all his heirs to their entire satisfaction, and the plaintiffs are therefore estopped from filing the complaint in this case;

12. That more than four years had elapsed since the said liquidation and settlement when the complaint in this case was filed;

13. That since the acquisition of the said property by the de-

fendant in the year 1884 she has been in possession of the same in good faith, under claim of ownership, publicly, peaceably and uninterruptedly, having thus acquired the same by ordinary prescription against the plaintiffs, who should be considered as being present, they having resided in Manila during all that time.

Wherefore they pray the Court to render judgment dismissing the complaint, with costs.

Manila, May 23, 1905.

(Signed) ALFRERDO CHICOTE,
" GIBBS & GALE,
Attorneys for Defendants.

454 Received copy this twenty-third day of May, 1905.
BISHOP, INGERSOLL & O'BRIEN,
Attorneys for Plaintiffs.

Indorsed: Filed this twenty-fifth day of May, 1905, at 11:10 a. m. J. McMicking, Clerk.

455 EXHIBIT "A."

Power of Attorney Executed by Antonio Enriquez in Favor of His Son Francisco.

No. 130. In Manila, this 5th day of March, 1883, I Miguel Torres, licentiate of law and a notary public of this city, having been called to the house No. 4 Calle David, District of Binondo of this City, there appeared before me and in the presence of the witnesses hereinafter mentioned Antonio Enriquez, of age, Chief of Administration of Public Finance, unemployed, property owner, a resident of this City and domiciled at the aforesaid house on Calle David, No. 4, and personally known to me; and having assured me that he had the necessary legal capacity to execute this power of attorney, nothing to the contrary to me appearing, said that he hereby and in the manner hereinafter set forth confers and grants full and complete power and as sufficient as may be required, to his son Francisco Enriquez, a resident of this city and of age, to in his name instead perform all the acts and represent him in all matters concerning him, either judicially or extrajudicially, as may be required; and for this purpose he confers upon him ample power to administer his property and look after the same with the greatest care and zeal, leasing them for the price, for the time and under the conditions which he may deem convenient, collecting the rent and products therefrom, ejecting or ousting tenants and admitting others in their place; to claim, collect and receive whatever amounts of money, values or other property that may be due him by any person or corporation; to demand an accounting from whomsoever the same should be required, approving those which he may
456 deem just and rejecting such as he may consider otherwise, stating his objections thereto and demanding such indemnity

as may be proper; to draw whatever amount he, the said grantor, may have in the banks of this city, collecting the interest thereon and renewing or otherwise disposing of the letters of payment in the manner and for the price and under the conditions which he may deem convenient; to make new deposits in his own name for such time as he may deem proper; to pay what he is really bound to pay and to collect all that he has a right to collect, giving the necessary receipt and letters of payment or other documents which may be required and demanding for the sums by him disbursed the necessary receipts from the payees; to buy, sell, mortgage, exchange and lease all kinds of property, real or personal, lands or buildings, releasing any mortgage or incumbrance on the same for the price and under the terms and conditions that he may deem convenient; to loan or borrow money with the necessary security; to sign promissory notes, warrants and all other kinds of documents, giving him full power to negotiate the same whenever it may be convenient; to draw letters of exchange and to accept and protest the same in due time whenever proper; to buy or sell shares in any company or corporation whatever; to discount promissory notes in the Spanish-Filipino Bank and in the other banks of this city; to draw checks on the said banks, to intervene in the rendition of account-current, to attend with his voice and vote the meetings which may be held; to negotiate the shares which he may have in the said banks and to perform all other *banks* which he may deem necessary and convenient for the interest of the grantor.

457 To collect, receive and take charge of whatever property may belong to him, either by inheritance, legacy or any other source; to intervene in any testate or intestate proceedings in which his said grantor may have an interest, as well as in the formation of inventories and in the settlement, appraisal and partition of estates and for this purpose to appoint experts, appraisers and all other persons who should take part in these transactions.

Compromise and compound all questions and differences which may arise with reference to the same; to attend the meeting of creditors in which his said grantor may be interested, approving what the majority of the said creditors may decide or giving his personal opinion and protesting against the decisions of such creditors, procuring such evidence as may be necessary to compromise or otherwise submit to arbitration all the claims and actions which his grantor has now pending or which may hereafter arise, hereby promising to abide by the decision of such arbitrators, paying whatever penalty may be imposed, executing the necessary instrument of settlement and performing all other acts with reference thereto as may be lawful.

To execute and sign such public instruments, receipts and documents, as should be necessary in connection with the transactions, contracts and obligations in which the grantor may be interested, which said instruments, receipts and documents shall be executed with the requisites and solemnities which their particular nature may require, performing such other acts as may be neces-

458 sary to a proper administration.

Finally the said grantor confers upon the said attorney

full power to represent him in all judicial matters, whether civil, criminal, administrative or otherwise, which he has or may have and whether they involve questions of fact or law, and for this purpose to appear before any court, public authority or proper department, filing such complaints, answers, petitions and documents as may be necessary; to hold and attend acts of conciliation, verbal actions, actions for misdemeanor, executive, civil and ordinary actions of whatever nature; to offer evidence and witnesses, to impeach the latter and contradict their statements; to have depositions taken; to accuse, challenge and sign articles; to institute incidental proceedings and proceedings in intervention, to give oath, accept service of citations, sommonses and orders; to secure attachments, dissolution of attachments and the sale of property at public auction; to appoint experts, including referees in case of disagreement; to hear interlocutory orders and final judgments, to abide by the same or to appeal therefrom and prosecute such other remedies, ordinary or extraordinary, as may be necessary, in the manner prescribed by law, to a complete determination; finally to perform all other acts that his grantor himself would perform if he intervened directly in the said transactions; and for this purpose he grants and confers to his said attorney unlimited power, binding himself with all of his property, present and future, to maintain and defend
459 whatever his said attorney may do under and by virtue of this power, with full power of substitution and revocation.

So said the grantor in the presence of the witnesses to this instrument, Ambrosio Aquino and Mariano Palacio, both residents of this city, of age and personally known to me; and they all having been informed of the right they had to read this instrument themselves or have it read to them, I proceeded to read it aloud at their request, whereupon the grantor ratified its contents, Federico Jimenez Zoboli, an attorney of this city, of age and personally known to me, having signed for the said grantor at the latter's request, the said grantor, Antonio Enriquez, not being able to sign himself because although in good health was physically incapable of doing so on account of his inability to use his right hand which was paralized, the witnesses above mentioned having also signed in my presence, to all of which I certify.—Ferderico G. Zoboli.—Ambrosio Aquino.—Mariano Pelacio.—Before me, Miguel Torres.—The foregoing is a copy of its original. (Sgd.) Antonio Santos.—Clerk in Charge of the Archives of Protocols.

460 EXHIBIT "B."

Conveyance of a Brick and Stone Building and the Lot upon which it Stands. Executed by Francisco Enriquez, as Attorney in Fact for His Father, Antonio Enriquez, to Victoriano Reyes.

No. 172.—In Manila, this 12th day of March, 1884, before me, Miguel Torres, licenciate of law, and a Notary Public of this City, and in the presence of the witnesses hereinafter named, personally appeared Francisco Enriquez y Villanueva, of age, a resident of

this city, and known to me to be such person, and having assured me that he is in the full enjoyment of his civil rights, and that he has the necessary legal capacity to execute this public instrument of conveyance as attorney in fact for a third party, nothing to the contrary to me appearing, said: That he executes this instrument in his capacity as attorney in fact of his father, Antonio Enriquez, according to a power of attorney given him on the 5th of March, 1883, and executed before the undersigned Nortary, the said power of attorney bearing No. 130, the pertinent part of which reads as follows: "No. 130, in Manila, this 5th day of March, 1883, I Miguel Torres, licentiate of law and a Notary Public of this City, having been called at the premises known as No. 4, Calle David, District of Binondo, of this City, there appeared before me and in the presence of the witnesshereinafter mentioned Antonio Enriquez y Sequera, of age, Chief of the Administration of Finance, unemployed, property owner, residing at the said premises numbered 4, Called David, of this City, and personally known to me; and having assured me that he had the necessary legal capacity to execute this power of attorney,
461 nothing to the contrary to me appearing, said: That he hereby grants and confers upon his son, Francisco Enriquez, a resident of this city and of age, as full and complete power as may be requisite and necessary, to in his name instead * * * buy, sell, mortgage, exchange, and lease all kinds of property, real or personal, of whatever nature, to redeem them for the price and under the conditions that he may deem convenient; * * * to execute and sign all public instruments, receipts and such other documents as may be necessary for the transaction of such business and the execution of such contracts and obligations as his grantor may have to transact or execute, all of which he shall do with all the requisites and solemnities required by the nature of each contract, performing all other acts as may be necessary for the administration of said property * * * so said Antonio Enriquez in the presence of the witnesses to this instrument, Ambrosio Aquino and Mariano Palacio, both residents of this city, of age and personally known to me; and having been informed by me of the rights which they had to read this instrument or have it read to them, I proceeded to read it to them in a loud voice, whereupon the said Don Antonio Enriquez ratified these presents, Federico Gimenez Zoboli, who was present, an attorney at law, of age, a resident of this city and personally known to me, signing for and at the request of the said Antonio Enriquez, who, although he was in good health, was physically incapable of using his right hand, on account of paralysis, the aforesaid witnesses having also signed hereon, to all of which I certify,—Federico G. Zoboli—Ambrosio Aquino—Mariano Palacio—Before me Miguel Torres"—The foregoing agrees literally with the original power of attorney to which I certify.

462 And the said Francisco Enriquez further said

1. That his father, and grantor, Antonio Enriquez, was the absolute owner of a brick and stone house and the lot on which it stands on the Riverita, in the District of Binondo, on the corner of La Barraca, bounded on the front thereof by the said Riverita,

on the right by the property of Ceferino Gil, on the left by the said Barraca and on the back by the property of Manuel Callejas.

2. That the aforesaid property was bought by his said father for a valuable consideration at a judicial sale which was held on the 27th of December, 1881, by the judge of the Court of First Instance of Intramuros, the Honorable Eulogio Andujar, before the Clerk, Manuel Blanco, in the proceedings relating to the intestate of the deceased Francisco de Paula de Enriquez, Conde la Puebla de Portugal, as shown by a certified copy thereof exhibited to me and to which I have referred.

3. That no mortgage, lein or incumbrance whatever exists upon the said property as he will readily show if necessary by a certificate of the Registrar of Mortgages for the City of Manila to that effect.

4. That he has heretofore agreed to sell the said property and the land upon which it stands to Victoriano Reyes for the sum of 2,500 pesos, and that in pursuance of that agreement he hereby sells and transfers absolutely, the aforesaid property to the said Victoriano Reyes with all uses, easements, rights and actions thereunto belonging for the sum of 2,500 pesos, which he, Francisco Enri-
463 quez, acknowledges to have heretofore received in local currency, to his entire satisfaction, with reference to the receipt of which he hereby waives whatever objection he might have on account of the money not having been actually counted, also waiving the two years which the law allows for the enforcement of that objection; and accordingly executes in favor of the purchaser the necessary receipt in acquittance for the aforesaid sum of 2,500 pesos; hereby transmitting and transferring to the said purchaser the absolute title and ownership of the said property that he may forthwith take possession of the same as his own legitimate property lawfully acquired, hereby binding his grantor to guarantee and defend this sale in accordance with law.

Victoriano Reyes being present, a resident of this city, of age, and personally known to me, said that he accepted the foregoing sale under the terms and conditions herein set forth, obligating himself to comply strictly with the terms of the same in so far as they concern him, in accordance with law.

Finally both contracting parties stated that in this contract there has been no fraud or lesion whatsoever; that the 2,500 pesos is the just compensation for the said property hereby sold, and that in the event that the said property be worth more or less than the amount paid therefor they hereby irrevocably make each other donations of whatever difference there may be, waiving the benefit of the laws relating to contracts in which there is lesion in more or less of half of the just price, and the period of four years which the law allows for bringing an action upon this ground, it being their desire that this contract be considered as complete and absolutely *abso-*
464 *lutely* consum-ated, to all of which the vender binds all of the property of his grantor and the purchaser all of his present and future property.

So said the contracting parties in the presence of the witness- to

this instrument, Ambrosio Aquino and Mariano Palacio, both residents of this city, of age, and personally known to me, who having been informed of the right which they have to read this instrument themselves or have it read to them, all and each of them read the same, and ratified its contracts, signing hereon with me, to which I certify.—Francisco Enriquez.—Victoriano Reyes.—Mariano Palacio.—Ambrosio Aquino.—Before me: Miguel Torres.

The foregoing is a true copy of its original.

(Sgd.) ANTONIO SANTOS,
Clerk in Charge of the Archives of Protocols.

465 EXHIBIT "C."

Conveyance of a Brick and Stone House and the Lot upon Which it Stands, Executed by Victoriano Reyes to Carmen de la Cavada.

No. 197. In Manila, District of Santa Cruz, this 5th day of April, 1884, before me, Eustaquio Villablanca de Mendoza, a Notary Public of this city and in the presence of the witnesses hereinafter mentioned, personally appeared Victoriano Reyes, of age, and a resident of this city, as vendor, and Carmen de la Cavada y Salaver de Enriquez, also of age and a resident of this city, as vendee, the latter being accompanied by her husband, Francisco Enriquez and she having obtained the necessary license from her said husband to execute this instrument, to which I certify, all of them being personally known to me, the said Victoriano Reyes stated that he was the absolute owner of a house and the lot upon which it stands on the Riverita in the District of Binondo, corner of La Barraca, being bounded on the front thereof by the said Riverita, on the right by the property of Cerferino Gil, on the left by the said Barraca, and on the back by the property of Manuel Callejas.

That the above described property was bought by him from Francisco Enriquez, here present, as attorney in fact for his father, Antonio Enriquez, for the sum of 2,500 pesos, according to public instrument executed on the 12th of last month before the Notary Public of this City, Miguel Torres, which said instrument is re-
466 corded on pages 626 to 631 of the Protocol of the said Notary and I hereby certify that a copy of the said instrument exhibited to me, duly attested, was read and initialed by me and will be attached to these presents.

That as the absolute owner of the above described property he hereby sells and conveys the same, together with the lot upon which it stands, and all the uses, easements, rights and actions thereunto belonging, to the said Carmen de la Cavada Solaver de Enriquez, for the aforesaid sum of 2,500 pesos which the vendor acknowledges to have heretofore received in local currency to his entire satisfaction; but such payment, although true, not having been made at the time of the execution of this instrument, he expressly waives any objections to the actual counting of the money, waiving all the period of two years which the law allows in which to interpose such objection;

and he accordingly hereby executes in favor of the said vendee such receipt or acquittance as may be necessary, for the said sum of 2,500 pesos, transferring to her the title and ownership to the said property with the land upon which it stands, that she may forthwith take possession of the same and dispose of it as her own property duly and lawfully acquired.

The vendor further states that no mortgage or lein exists upon the said house and lot, binding himself to defend and guarantee this sale whenever required in accordance with law.

The vendee, Carmen de la Cavada y Salaver de Enriquez, with the permission of her husband first obtained as aforesaid, having
467 been duly informed of the contents of this conveyance to her by Victoriano Reyes, said:

That she accepts the said sale under the terms and conditions above stated and that she hereby binds herself to comply with the same insofar as it concerns her by reason of this acceptance.

Finally vendor and vendee hereby declare that there has been no fraud or lesion in the execution of this contract and that the 2,500 pesos is a just and fair value of the property and lot thus sold; and that if the same is worth more or less than the stipulated amount they mutually donate to each other whatever difference in value there may be, hereby expressly waiving the provisions of law relating to contracts in which there is lesion in more or less than half of what is considered the just value of the property, and the four years which the law fixes for bringing a claim on this ground, it being their desire that this contract be considered as absolutely perfect and consum-ated, the vendor binding himself with all of his property, present and future, and the vendee with her own property, also present and future, to the faithful performance thereof.

So said the contracting parties in the presence of the witnesses Quintin Joaquin and Pelagio Santos, residents of this city, of age, and personally known to me, and they all having been informed of the right which they had to read this instrument, each and every one of them read the same, and ratified the contents thereof, signing hereon with the husband of the vendee, to all of which I certify.—Carmen de la Cavada de Enriquez.—Francisco Enriquez.—Victoriano Reyes.—Quintin Joaquin.—Pelagio Santos. Before me.—The foregoing is a true copy of its original.—Antonio Santos, Clerk in charge of the archives of protocols.

468 UNITED STATES OF AMERICA,
Philippine Islands.

In the Court of First Instance, City of Manila.

Cause No. 474.

RAFAEL ENRIQUEZ et al., Plaintiffs,
vs.
FRANCISCO ENRIQUEZ, CARMEN DE LA CAVADA DE ENRIQUEZ, and VICTORIANO REYES, Defendants.

Stipulation.

It is hereby stipulated and agreed between the parties to this action that there shall be admitted as evidence herein the following namd portions of the supplemental bill of exceptions (addition to the bill of exceptions), heretofore filed upon the hearing of the cause in the Supreme Court of the Philippine Islands, to-wit:

Testimony of Vicente Collado, pages 1-3.
" " Francisca Martez, pages 3-4.
" " Arcadio Arellano, pages 9-10.
" " José Guevara, pages 10-12.

(Signed) FRANK B. INGERSOLL,
Attorney for Plaintiff.

(Signed) ALFREDO CHICOTE,
"
A. D. GIBBS,
Attorneys for Defendant.

469 UNITED STATES OF AMERICA,
Philippine Islands:

In the Court of First Instance for the City of Manila, Part II.

Civil Case No. 474.

RAFAEL ENRIQUEZ, in His Own Right and as Administrator of the Estate of Antonio Enriquez y Sequera, Deceased; Antonio Enriquez, Trinidad Enriquez, Cayetano Enriquez, Rosaria Enriquez, Gertrudis Enriquez, Antonio Gascon, a Minor, Plaintiffs,
vs.
FRANCISCO ENRIQUEZ, CARMEN DE LA CAVADA DE ENRIQUEZ, His Wife, and VICTORIANO REYES, Defendants.

Proceedings.

AUGUST 28TH, 1905.

Mr. Frank B. Ingersoll appeared in behalf of the plaintiffs; Mr. Allison D. Gibbs and Sr. Alfredo Chicote on the part of the defendants.

Mr. INGERSOLL: I offer in evidence three documents, which I ask to have marked Exhibits A., B., and C.

Mr. GIBBS: I object to the introduction of these documents, for the reason that Rafael Enriquez is only a provisional administrator authorized to collect rents, and that he has no power or authority as a general administrator, nor any right to bring the action.

The COURT: The objection is overruled for the present, the
470 documents will be examined later on.

Mr. GIBBS: Exception.

Mr. INGERSOLL: I also offer in evidence the stipulation signed by myself as attorney for the plaintiffs, and by Alfredo Chicote and A. D. Gibbs as attorney for the defendants, and ask that it be marked Exhibit D.

Mr. GIBBS: I have no objection to the stipulation.

Mr. INGERSOLL: I also offer in evidence a document which I ask to have marked Exhibit E.

Mr. GIBBS: No objection.

Mr. INGERSOLL: That is the case on the part of the plaintiff.

The COURT: Proceed with the defense.

Defense.

Mr. GIBBS: I offer in evidence documento No. 21, entitled "Escritura de Transaccion de 22 de Abril de 1891", which is to be found in the pamphlet referred to as "Refutacion de un Libelo" in the stipulation Exhibit D.

I also offer in evidence document No. 22, entitled "Escritura de Convenio so bre particion de herencia, otorgada en 25 de Agosto de 1896", which is to be found in the same pamphlet.

I also offer in evidence document No. 23, entitled "Acta de la Reunión celebrada por D. Francisco, D. Rafael y D. Antonio Enriquez, con el contador partidor D. José Moreno Lacalle el dia 16 de Agosto de 1897", which is to be found in the same pamphlet.

I also offer in evidence document No. 24, entitled "Acta de la Reunión celebrada por D. Francisco, D. Rafael y D. Antonio Enriquez con el contador partidor D. José Moreno Lacalle el dia 3 de Noviembre de 1897", to be found in the same pamphlet.

I also offer in evidence document No. 26, entitled "Pro-
471 yecto de Escritura de Formacion de Inventario de las herencias de D. Antonio Enriquez y Da. Ciriaca Vallanueva, y aprobacion de las cuentas del albaceazgo, con la conformidad de D. Francisco, D. Rafael y D. Antonio Enriquez. Este documento sirvió de minuta de la escritura otorgada en 27 de Noviembre de 1897, ante el notario D. José Engracio Monroy", which is to be found in the same pamphlet.

I offer these documents in evidence for the purpose of showing that all matters in dispute in this case were fully compromised and settled and disposed of, by virtue of the series of agreements made.

Mr. INGERSOLL: The execution of these documents offered in evidence is admitted under the stipulation filed in this case, Exhibit D., but their introduction as evidence is objected to on the part of the plaintiff on the ground as evidence *is* they are incompetent and irrel-

evant, as appears upon the face of them, for the purpose for which they are offered.

The COURT: Objection overruled.

Mr. INGERSOLL: Exception.

Mr. GIBBS: The defendants rest.

I certify that the *avobe* is a correct transcript of shorthand notes taken by me of the proceedings in the above entitled case in the Court of First Instance for the City of Manila, on the 28th day of August, 1905.

W. M. BARRINGTON,
Official Reporter.

We agree that the foregoing is a correct statement of the evidence introduced on the last trial of the above entitled case.

HARTIGAN, ROHDE & GUTIERREZ,
FRANK B. INGERSOLL,
Attorneys for Plaintiff- & Appellee-.
W. A. KINCAID,
For the Appellant.

472 EXHIBIT "A."

Court of First Instance, Intramuros, February 8, 1900.

Order.

Upon consideration of the foregoing petition, the undersigned, acting in substitution for the Judge of the Court of First Instance of this District, José Basa, and for the Justice of the Peace, José Maria Quintero, both being disqualified in this case, and whereas Felipe Calderon has heretofore appeared in behalf of Antonio, Rafael, Trinidad, Rosaria, Gertrudis, and Cayetano Enriquez y Villanueva, asking for judicial intervention with regard to the rents of the property belonging to the estates of Antonio Enriquez and Ciriaca Villanueva, which said petition was granted by this Court on the sixth of November last, and that a person be appointed with full power to administer the property of the estate and correct the omissions of the former administrator, Francisco Enriquez, for the reasons therein set forth, and that Rafael Enriquez be appointed for that purpose; and whereas when the Court made the order of the sixth of November last, upon the petition presented by said Mr. Calderon on the 28th of October last, for the removal of Francisco Enriquez from his office as administrator of the estate, the provisional intervention in the collection of the rents was decreed, on account of the fact that the conduct of the defendant was found suspicious and prejudicial to the interests of the other parties interested in the estate; and whereas the intervention thus decreed, upon the ground
473 that the property of the estate was undivided, requires the application of the rules laid down by the Civil Code with regard to community property, and that the Court should

therefore appoint, as administrator of the said property, one of the heirs, with the approval and consent of the majority of the parties interested in the estate, taking into consideration for this purpose the provisions of Title Three, Book Two of the Civil Code; and whereas there being ten persons interested in the said Estate and that Rafael Enriquez, the heir designated for the office in question by his attorney, Felipe Calderon, represents a majority of the parties interested in the said estate, his petition that Rafael Enriquez be appointed administrator, as aforesaid, should be granted under section 398 of the Civil Code, Therefore the Honorable José del Castillo, Acting Justice of the Peace of this District, acting as Judge of the Court of First Instance, before me, the Clerk, said: That the intervention in the collection of the rents from the estate in question, decreed by this Court on the sixth of November last, be hereafter conferred upon Rafael Enriquez, who is hereby appointed as such administrator, with reference to a resolution adopted by a majority of the parties interested, he being hereby empowered to intervene in all the acts of the Administrator, to supply his deficiencies in whatever may benefit all the parties concerned, and in case of any opposition on the part of the Administrator, to abide by the decision of a majority of the interested parties; and he is further hereby empowered to delegate his authority as such to any person or persons whom he may see fit; provided, however, that he will render monthly an account to this Court of all the receipts and disbursements with reference to the said property, exhibiting such receipts or vouchers as may be issued to him by the estab-
474 lishment designated for this purpose. It is also directed that notice of this order be given to the occupants of the property belonging to the estate, within the time provided for by Section 244 of the Code of Civil Procedure, advising them that hereafter they should pay the rent for such occupation to Rafael Enriquez y Villanueva. So ordered and adjudged by the Court.

(Signed) JOSÉ DEL CASTILLO.

Before me,

(Signed) AMBROSIO V. FUENTES.

475 EXHIBIT "B."

In the Court of First Instance of the District of Tondo, Manila, May 14, 1900.

Order.

Upon consideration of the foregoing petition and the copies of the same thereto attached, it is ordered that a copy thereof be served upon Francisco Enriquez and that the original be attached to the record in the case, to which it belongs, and it appearing to this Court that Francisco Enriquez, the administrator of the property of the estates of Antonio Enriquez and Ciriaca Villanueva, is at present

confined in Bilibid Prison, under a charge of estafa, and that he is therefore physically unable to administer the said property; and

Whereas Don Francisco Enriquez, being thus incapable of administering the said property, it becomes necessary to appoint some one temporarily in substitution therefor, in the management and control of the said property, that the same may not be abandoned, to the prejudice of the parties interested therein, particularly of the minor Antonio Gascon Enriquez; and

Whereas Rafael Enriquez is the proper person to be so appointed, under Paragraph Four of the will of the deceased Antonio Enriquez,—

Now, therefore, Hipolito Magsalan y Bautista, Judge of the Court of First Instance of the District of Tondo, before me, the Clerk, said: Without prejudice to the order of this Court made on the eighth instant, Rafael Enriquez is hereby appointed temporary administrator of the property of the estate of the deceased Antonio Enriquez and Ciriaca Villanueva, and he is hereby ordered
476 to immediately take charge of the administration of the said property, he being hereby vested with such power and authority as may be necessary for the faithful performance of his duties. It is further ordered that the occupants of the said property belonging to the said estate be notified that in future they should pay rent to the said Rafael Enriquez; and let his appointment be published in the newspapers of this city. It is further ordered that Rafael Enriquez render a monthly account to this Court of his administration. It is so ordered and adjudged.

HIPOLITO MAGSALAN.

Before me,
(Signed) EUSTAQUIO V. DE MENDOZA.

477 EXHIBIT "C."

In the Court of First Instance of Intramuros, this Eleventh Day of March, 1901.

Order.

It appearing that, in a petition dated the second instant, counsel for the minor José Gascon y Enriquez requested this Court to set aside the order of the thirty-first of May last, directing that Francisco Enriquez be reinstated as administrator of the property of the estates of the deceased Antonio Enriquez and Ciriaca Villanueva, and it appearing that a copy of the said petition having been served upon the said Francisco Enriquez, on the sixth instant, he made no objection thereto, and considering that the order of the thirty-first of May, nineteen hundred, page 27 of the record—the nullity of which was cited in the petition of the second of March, in which the appointment of Rafael Enriquez as administrator was set aside, as per an order made on the 14th of May—was made as a result of the petition presented on the 28th of May, 1900, page 27, by Attorney

Pablo Antonio Martinez, with the request that the said order of the 14th of May be set aside, in view of the fact that Francisco Enriquez, whom he represented, had been released from confinement, and it should be noted that the said petition thus presented by Attorney Pablo Antonio Martinez is not accompanied by a power of attorney to him executed by Francisco Enriquez, and that the said Francisco Enriquez has not notified the other party, in writing, of his employment of another attorney, as required by Section eleven of General Order
29, dated ninete-*t*nh of July, 1899, having thus violated the
478 provisions of that section; and considering that the said order of the thirty-first of the same month was not made upon a petition presented by a person legally authorized to present the same, this being a civil case, in which the office of the judge is simply passive—all of which is corroborated by the petition subsequently presented by Attorney Francisco Ortigas on the fifth of June, 1899, in behalf of the said Francisco Enriquez, page 48; and

Considering that judicial intervention having been decreed, for the reasons set out in the orders of this Court of the 11th and 15th of February last, from which an appeal was taken on the 6th of November 1899, with reference to the collection of the rents of the property of the estate and deposit of the same in the Monte de Piedad (a local savings bank), it becomes necessary for the due administration and management of said property that a person be appointed to manage the same, since the Clerk of this Court, although he could collect the rent, cannot now do so, unless he would abandon or otherwise neglect the duties of his office; and

Considering that the legal reasons for the said judicial intervention were, first, the fact that the executor Francisco Enriquez was then held under four separate prosecutions for the crime of Estafa, alleged to have been committed by him while acting as administrator and executor of the property in question, which said criminal prosecutions, although not yet decided, on account of the elaborate procedure of the former legislation, do not furnish sufficient cause for his removal from his said office as executor, under Paragraph Two, Section 237 of the Civil Code, are sufficient, however, to show
misconduct on his part in the administration of the estate,
479 thus brin-ing the case under the provisions of Paragraph Four of Section 238 of the said Code, which relates to the removal of guardians but which is equally applicable by analogy to executors, as in this case; second, the fact that the said Francisco Enriquez has failed for eight or nine months to attend to the support of each of his brothers and sisters and co-heirs, including the minor Antonio José Gascon y Enriquez, by the payment to them of the monthly pension of eighty pesos, the said minor José Gascon y Enriquez, an orphan, being at present in a most precarious situation, in a foreign country,—all of which demands immediate justice, without reference to legal technicalities, particularly if we take into consideration that the money for the support of the said minor and heirs is not taken from the pocket of any one person but is derived from the estate, belonging to all of them; and considering that ju-

dicial intervention having been decided upon, for the reasons above set out, it becomes absolutely necessary, unless the court otherwise make itself liable, for leaving the property of the estate abandoned, to the prejudice of the heirs, one of whom is a minor, to appoint a person to administer the said property; and considering further that Rafael Enriquez would be the proper person—first, because he was appointed in the second place in the will of Antonio Enriquez as executor, and second because he represents and is the attorney in fact for a majority of the participants in the estate; and third, because he has already merited the confidence of the Court of First Instance of Tondo, when he was appointed, on the fourteenth of May, nineteen hundred, as administrator of the estate while his brother Francisco Enriquez was in prison; and fourth, because if a stranger were to be appointed as such administrator it would be necessary to require of such person so heavy a bond that it would be made difficult, or even impossible, to find anyone willing to accept such appointment; and after an examination of the laws and legal provisions applicable to the case, the Honorable José Basa Enriquez, Judge of the Court of First Instance of Intramuros, before me, the Clerk, said: That the order of the thirty-first of May, nineteen hundred, page 27, is hereby set aside, and the appointment of Rafael Enriquez, made on the fourteenth of the said month of May, as administrator of the property of the estates of Antonio Enriquez and Ciriaca Villanueva, is hereby confirmed, and it is ordered that copy of this order be immediately served upon the occupants of the property in question, adjudging that part of this order be published in the newspapers of this city, "La Democracia," "La Union" and "El Renacimiento"; that there be delivered to Rafael Enriquez all documents showing the deposits made in the savings bank of this city to the amount of ninety-nine pesos and ninety cents and three pesos, respectively, collected during the month of February of this year, as well as outstanding bills, depositing any balance due in the said savings bank, after paying to each of the heirs the aforesaid pension of eighty pesos per month. So ordered by the Court, to which I certify.

480

(Signed) JOSÉ BASA.

Before me

(Signed) FRANCISCO R. CRUZ.

481 EXHIBIT "D."

UNITED STATES OF AMERICA,
Philippine Islands:

In the Court of First Instance, City of Manila.

No. 474.

RAFAEL ENRIQUEZ et al., Plaintiffs,
versus
FRANCISCO ENRIQUEZ, CARMEN DE LA CAVADA DE ENRIQUEZ and VICTORIANO REYES.

Stipulation.

It is hereby stipulated between the parties to the above entitled action that upon the trial thereof the trial Court shall consider as proven the following agreed Statement of Facts:

1.

That Nazarino Constantino, named in the title of said cause as Guardian ad Litem of the minor Jose Gascon, one of the plaintiffs, has been, from prior to the date of the filing of the second amended complaint in said action, and now is, the duly and regularly appointed and acting Guardian ad Litem for said action of said minor Jose Gascon.

2.

That Antonio Enriquez y Sequerra, referred to in the pleadings in said action, died testate, in the month of July, 1884, in the Kingdom of Spain, leaving a will in which he bequeathed all the property which he had at the time of his death in equal parts to all his children.

482 3.

That the defendant, Francisco Enriquez, is the oldest surviving son of said Antonio Enriquez y Sequera, deceased.

4.

That the plaintiffs, Rafael Enriquez, Antonio Enriquez, Trinidad Enriquez, Cayetano Enriquez, Rosario Enriquez and Gertrudis Enriquez, and Defendant, Francisco Enriquez, and one Carmen Enriquez, residing in the Kingdom of Spain, are the only legitimate, surviving children and heirs of said Antonio Enriquez y Sequera, deceased, with the exception of the Plaintiffs Jose Gascon, who is and heir of said Antonio Enriquez y Sequera, deceased, by reason of being the only surviving child of one Concepcion Enriquez, who was one of the surviving daughters of said Antonio Enriquez y Sequera,

263

deceased, but who has herself since died, and with the exception of Doña Carmen de la Cavada de Enriquez who succeeded to and is the owner of the Share of inheritance of the deceased Jorge Enriquez, one of the sons and heirs of the deceased, Don Antonio Enriquez and Ciriaca Villaneuva.

5.

That the Defendant, Carmen de la Cavada de Enriquez is now and at all times mentioned in the pleadings in the above entitled action has been the wife of the Defendant Francisco Enriquez.

6.

That immediately upon the death of said Antonio Enriquez y Sequera in July, 1884, the Defendant, Francisco Enriquez,
483 became the testamentary executor of the property of said Antonio Enriquez y Sequera, deceased, and continued acting as such until about the end of the year 1900.

7.

That of the first day of April, 1883, the said Antonio Enriquez y Sequera left the Philippine Islands for Europe, where he continued to reside from the time of his arrival in May, 1883, until the date of his death.

8.

That since the 5th day of April, 1884, the Defendant, Carmen de la Cavada de Enriquez, has been in exclusive possession and control of the property described in Paragraph XII of Plaintiffs' Second Amended Complaint, and has collected and used for her own benefit all the rents and profits of said property. Provided, that by reason of this stipulation Plaintiffs shall not be estopped from presenting competent evidence for the purpose of showing that the Defendant, Francisco Enriquez, participated in such rents and profits, and the Court shall not be estopped from rendering judgment against Defendant Francisco Enriquez for recovery of the amount of such rents and profits.

9.

That at the time said property passed to said Antonio Enriquez y Sequera he was lawfully married to one Ciriaca Villanueva, then liv-
ing, and said property was acquired by the conjugal partner-
484 ship as community property in the month of December, 1881.

10.

That the said Ciriaca Villanueva was the mother of all the Plaintiffs, with the exception of the minor Gascon; was the mother of the defendant Francisco Enriquez, and was the mother of the said Concepcion Enriquez, deceased, mother of the Plaintiff Jose Gascon.

11.

That the said Ciriaca Villaneuva died, intestate, in the month of August, 1882.

12.

That the defendant Francisco Enriquez and one Don Isidro Lladó y Fermin did actually execute the original of the instrument, a copy of which appears in and is designated as "Documento Num. 21" in that certain pamphlet entitled "refutacion de un Libelo," Apendice al Escrito Dirigido al Fiscal de la Corte Suprema de Justicia de Filipinas por Don Francisco Enriquez y Villaneuva, refutando las imputaciones que le hacen Rafael y Antonio Enriquez en un Escerito Impreso Relativo á una Cause Sobreseida en Primera Instancia, Promovida por los Citados Individuos;" That on the occasion of executing said instrument said Francisco Enriquez exhibited evidence of his authority as attorney-in-fact for Doña Rosario, Doña Carmen, Don Cayetano, Don Antonio and Doña Gertrudis Enriquez, named in said "Documento Num. 21," as well as evidence of his ap-
485 pointment as guardian of Doña Trinidad and Doña Concepcion Enriquez, also named in said "Documento Num. 21;" and that on the said occasion the said Don Isidro Lladó y Fermin exhibited a substitution of power of attorney-in-fact for Rafael Enriquez.

13.

That the parties named therein, to wit: Defendant Francisco Enriquez and Plaintiffs Rafael Enriquez and Antonio Enriquez did actually execute the originals of the instruments, copies of which appear in said pamphlet "Refutacion de un Libelo," respectively, as "Documento Num. 22," "Documento Num. 23," "Documento Num. 24" and "Documento Num. 26."

And it is further stipulated between the parties that all of the evidence, both oral and documentary, taken upon the former trial of this cause shall be considered by the trial judge upon the present hearing, and that for this purpose there shall be admitted as evidence the printed Bill of Exception formerly filed in this cause upon its hearing in the Supreme Court of the Philippine Islands.

Manila, Aug. 23, 1905.

FRANK B. INGERSOLL,
Attorney for Plaintffs.
ALFREDO CHICOTE,
A. D. GIBBS,
Attorneys for Defendants.

486 UNITED STATES OF AMERICA,
Philippine Islands:

In the Court of First Instance for the City of Manila, Part II.

Civil Case No. 474.

RAFAEL ENRIQUEZ, in His Own Right and as Administrator of the Estate of Antonio Enriquez y Sequera, Deceased; Antonio Enrique, Trinidad Enriquez, Cayetano Enriquez, Rosaria Enriquez, Gertrudis Enriquez, Antonio Gascon, a Minor, Plaintiffs,
versus
FRANCISCO ENRIQUEZ, CARMEN DE LA CAVADA DE ENRIQUEZ, His Wife, and VICTORIANO REYES, Defendants.

Decision.

This case is now before the Court for new trial, upon order of the Supreme Court upon appeal from the judgment entered upon the former trial, and upon an amended complaint by the plaintiff asking that a power of attorney appearing to have been executed by Antonio Enriquez y Sequera, before his death, to the defendant Francisco Enriquez be declared null and void, on account of fraud and forgery committed in its execution; that the deed of property by the defendant Francisco Enriquez to the defendant Victoriano Reyes be declared null and void on account of fraud committed against the owners of the property in its execution; that the deed of the same property executed by the defendant Victoriano Reyes to the
487 defendant Carmen de la Cavada de Enriquez be declared null and void on account of fraud committed against the owners thereof in its execution; that said property be declared to be part of the estate of Antonio Enriquez y Sequera, deceased; that the defendants and each of them be declared to have right, title or interest in and to said property; that plaintiffs recover from the defendant Carmen de la Cavada de Enriquez the rental value of said property at the rate of one hundred pesos per month from the year 1884 to the year 1890, at the rate of one hundred and fifty pesos per month from the year 1890 to the year 1897, and at the rate of two hundred pesos per month from the year 1897 to the date od the complaint; and for such other and further relief as to the Court may seem just and proper.

The defendants answering, specifically deny that the plaintiff Rafael Enriquez is administrator of the estate of Antonio Enriquez y Sequera and Ciriaca Villanueva, his wife both deceased, and allege that he is not authorized to bring the action, but that the defendant Francisco Enriquez is the executor under the will, of the estate of Antonio Enriquez y Sequera, deceased; and further answering declare that the property described in the complaint was sold by public judicial sale to said Antonio Enriquez y Sequera on the 27th day of December, 1881, and that on the 5th day of March, 1883, Antonio Enriquez y Sequera, by public document, made the defend-

ant Francisco Enriquez his attorney with general powers, and that on the 12th day of March, 1884, acting under such power of attorney, he sold the property described in the complaint to the defendant Victoriano Reyes for the sum of twenty five hundred pesos,
488 and that on the 5th day of April, 1884, the said Victoriano Reyes sold said property to the defendant Carmen de la Cavada Enriquez for the sum of twenty-five hundred pesos; and further allege that from the 22nd day of April, 1891, to the 27th day of November, 1897, inclusive, a liquidation of the accounts and transaction in relation to the estate of Antonio Enriquez y Sequera, by Francisco Enriquez as executor of the estate, was arrived at between the plaintiffs and the defendant Francisco Enriquez; and the defendant Carmen de la Cavada de Enriquez as the owner of the inheritance of Jorge Enriquez, one of the heirs of said Antonio Enriquez y Sequera, deceased, and that this agreement was made to appear in public documents, *and that in a documents*, and that in a document dated November 3rd, 1897, the plaintiff Rafael and Antonio Enriquez acknowledged that the property had been *t*old by the defendant Francisco Enriquez to the defendant Victoriano Reyes, and that, as appearing from one of the public document- containing the agreement before mentioned, it was acknowledged that the sum of twenty-five hundred pesos had been charged to Francisco Enriquez in his accounts in relation to the administration of said estate; and that more than four years have passed since the making of said agreement and liquidation, and that the owner of the estate has since the year 1884 has just title and has been in peaceful/ and uninterrupted possession and in good faith of said property.

Mr. Frank B. Ingersoll and Mr. A. A. Montagne appeared in behalf of the plaintiffs; Mr. A. D. Gibbs and Sr. Alfredo Chicote on the part of the defendants.

489 There was a great mass of evidence introduced, including that presented at the former trial, and a number of documents both public and private, to much of which objection was offered, but as the Superior Court in its order directing the new trial directed that the evidence before presented was valid, it was received to be considered by the Court in so far as it should be proper, and the exhibits presented were received to be examined later.

While I am of the opinion that some of the evidence offered is not competent or material, yet it is so connected with that which is that it would be difficult to segregate it, and in making the findings of fact herein the Court has only considered that which appears to be proper in support of the issues presented by the pleadings.

From the evidence thus considered, the Court finds:

That Rafael Enriquez is the administrator, duly qualified and acting, of the estate of Antonio Enriquez y Sequera, deceased, which included the estate of Ciriaca Villanueva, his wife.

That the plaintiffs, Rafael Enriquez, Antonio Enriquez, Trinidad Enriquez, Cayetano Enriquez, Rosaria Enriquez, and Gertrudis Enriquez are children of Antonio Enriquez y Sequera, deceased, and of Ciriaca Villanueva, his wife, and that the plaintiff Antonio Gascon is the minor child of Concepción Enriquez, who was a daughter of

said Antonio Enriquez y Sequera, deceased, and Ciriaca Villanueva, his wife, who died after both her parents died and before the commencement of this action, and that said minor is the sole heir of said Concepción Enriquez, and is represented by Nazario Constantino as his guardian ad litem, duly appointed as such before the filing of the amended complaint in this action and is still acting as such, and as such they are entitled to bring this action.

490 That the defendant Francisco Enriquez is a son and heir of said Antonio Enriquez y Sequera and Ciriaca Villanueva, his wife, both deceased;

That the defendant Carmen de la Cavada de Enriquez is the wife of Francisco Enriquez, and came into the right by purchase of the inheritance of Jorge Enriquez, one of the sons and heirs of said Antonio Enriquez y Sequera and Ciriaca Villanueva, his wife;

That Jorge Enriquez was a son and heir of the said Antonio Enriquez y Sequera, deceased, and of Ciriaca Villanueva, his wife, and that he died before the commencement of this action, and before his death he transferred his inheritance by public document, executed on the 14th day of November, 1885, to the defendant Victoriano Reyes, and he in return transferred the same to the defendant Carmen de la Cavada de Enriquez on the 5th day of April, 1886;

That said Antonio Enriquez y Sequera was during his lifetime married to Ciriaca Villaneuva, who died in the year 1882, and he died in July, 1884, in the Kingdom of Spain, and they left as their sole heirs the plaintiffs, Rafael Enriquez, Antonio Enriquez Trinidad Enriquez, Cayetano Enriquez, Rosaria Enriquez, Gertrudis Enriquez, Carmen Enriquez, who is not made a party to this action, and Concepción Enriquez, who died after they did and left as her sole surviving heir the plaintiff Antonio Gascon, and the defendant Francisco Enriquez, and one Jorge Enriquez, who died after both his parents had died, and before his death he had transferred his inheritance in the estate and the same came into the possession of the defendant Carmen de la Cavada de Enriquez;

491 That said Antonio Enriquez y Sequera, deceased, left a will by which he left all his property, share and share alike, to his children, and Ciriaca Villanueva, his wife, died intestate;

That Antonio Enriquez y Sequera and Ciriaca Villanueva, during their lifetime and the existence of the marriage contract between them, obtained possession of the property described in the complaint, the subject matter of this action, having purchased the same of one who had bought it at a public judicial sale in the year 1880;

That on the 5th day of March, 1883, and after his wife Ciriaca Villanueva had died and he was administering the community property as the surviving spouse, the said Antonio Enriquez y Sequera executed a power of attorney to the defendant Francisco Enriquez which authorized him, among other things, to sell real property;

The plaintiffs' claim is that at the time of executing the power of attorney, the said Antonio Enriquez y Sequera was wholly incapacitated from so doing, and it appears that on the date which the power of attorney appears to have been executed the said Antonio

Enriquez y Sequera was confined to his house on the Escolta, while the power of attorney itself stated it was executed at a house in which he had before lived on Calle David.

While this might create a suspicion that the power of attorney was not executed by Antonio Enriquez and while there is some evidence tending to show that said Antonio Enriquez y Sequera had been partially paralysed for some time prior to the date of the power of attorney, and that he was wholly unable to transact any business whatever, and while this evidence might create a
492 suspicion that the power of attorney was not executed by said Antonio Enriquez y Sequera et al., yet it is easy to see that the notary preparing the power of attorney, having been instructed to do so and having known that said Antonio Enriquez y Sequera resided on Calle David, so prepared the power of attorney, and when it was finally executed on the Escolta the change of location failed to be noted in the power of attorney itself, and I am unable to find but that said Antonio Enriquez y Sequera had sufficient mental capacity to know fully what he was doing, and to execute the power of attorney as he did even though he was stricken with paralysis and was unable to talk plainly or sign his name, particularly when he knew that he would shortly leave the country for Europe, and that necessity existed for having an agent here to look after his business interests with sufficient power to act, and therefore the power of attorney may not be declared fraudulent or a forgery;

That acting under the power of attorney the said Francisco Enriquez, and while said Antonio Enriquez y Sequera was absent in Europe, pretended to sell and transfer to the defendant Victoriano Reyes by public document executed on the 12th day of March, 1884, and before the death of said Antonio Enriquez y Sequera, the real estate described in the complaint for the alleged sum of twenty-five hundred pesos;

That on the 5th day of April, 1884, the defendant Victoriano Reyes pretended to sell and transfer the said real-estate to the defendant Carmen de la Cavada de Enriquez, wife of said Francisco Enriquez, for the alleged sum of twenty-five hundred pesos;

The defendant Victoriano Reyes testified that he accepted the transfer of said property from said defendant Francisco Enri-
493 quez at his request, as an accom-odation to him, and that he did not pay anything for the property, and that he subsequently transferred the property to said defendant Carmen de la Cavada de Enriquez at the request of Francisco Enriquez, and as an accom-odation to him and the said defendant Carmen de la Cavada de Enriquez, and that he received nothing for so doing;

That said defendant Francisco Enriquez has never accounted to his father or to his father's estate, which included that of his mother Ciriaca Villanueva, for any amount as received from the sale of said property, and that the transfers by him to the defendant Victoriano Reyes and by said Victoriano Reyes to the defendant Carmen de la Cavada de Enriquez for twenty-five hundred pesos were merely subterfuges used to transfer the title to said property from the estate of his father and his mother to his wife, and that he received nothing

for the transfer of said real property to the defendant Victoriano Reyes, and the defendant Carmen de la Cavada de Enriquez paid nothing for the transfer of the same to her;

That the pretended sales and transfers by the defendant Francisco Enriquez to the defendant Victoriano Reyes, and by the defendant Victoriano Reyes to the defendant Carmen de la Cavada de Enriquez, were frauds upon the said Antonio Enriquez y Sequera and Ciriaca Villanueva, his wife, and their heirs;

That upon the death of Antonio Enriquez y Sequera, deceased, the defendant Francisco Enriquez took possession of the estate of the said Antonio Enriquez y Sequera, together with the community interest therein of Ciriaca Villanueva, the wife of said Antonio Enriquez y Sequera, as his executor under the will left by said Antonio
494 Enriquez y Sequera, and that he continued so in possession as such executor until the month of May, 1901, when he was removed and the plaintiff Rafael Enriquez was appointed administrator of said estate;

That long subsequent to the transfer of said real property by the defendant Francisco Enriquez to the defendant Victoriano Reyes, and by said Victoriano Reyes to the defendant Carmen de la Cavada de Enriquez, an accounting was made by Francisco Enriquez of his administration of said estate under an agreement made in the year 1891, and covering the period from that date until November, 1896, and this accounting was recognized and agreed to by the plaintiffs Rafael Enriquez and Antonio Enriquez representing themselves and some others, and — that accounting it appears that the defendant charged himself as executor with the sum of twenty-five hundred pesos as received from the sale of the real estate in controversy;

That on the 3d day of November, 1897, the defendant Francisco Reyes and the plaintiffs Rafael Enriquez and Antonio Enriquez executed a public document in the city of Manila, in which it appears that said Rafael Enriquez and Antonio Enriquez understood that the property described in the complaint, among other, belonged to the estate of their deceased father, and should be included in the inventory, and that the defendant Francisco Enriquez answered saying that the property described in the complaint had been by him under his father's power of attorney — to the defendant Victoriano de los Reyes, and that thereupon the said Rafael Enriquez and
495 Antonio Enriquez withdrew their claim in relation to it, and later they executed a public document on the 27th day of November, 1897, in which appears an inventory of the estate of said Antonio Enriquez y Sequera and his wife Ciriaca Villanueva, and an accounting of the executor thereof, and in the execution of this document the defendant Francisco Enriquez appeared in his own behalf and representing Carmen Enriquez; Rafael Enriquez in his own behalf and representing Cayetano Enriquez, Gertrudis Enriquez, Rosaria Enriquez and Trinidad Enriquez; Antonio Enriquez in his own behalf and representing Concepcion Enriquez, and Carmen de la Cavada de Enriquez in her own behalf as the owner of the inheritance of Jorge Enriquez, son and heir of the deceased Antonio Enriquez y Sequera and Ciriaca Villanueva, and in this inventory ap-

pears charged to the executor as the price of the sale of the property described in the complaint the sum of twenty-five hundred pesos, and the property itself does not appear in the inventory, and the inventory and accounting was approved with the qualifying clause "saving error or *a*mission";

That a long time after the making of said agreement, and much less than four years before the commencement of this action the action having been begun 4 years and 13 days after said Nov. 27, the plaintiffs herein learned for the first time of the fraud exercised in transferring the property described in the complaint by the defendant Francisco Enriquez to the defendant Victoriano Reyes and by said Victoriano Reyes to the defendant Carmen de la Cavada de Enriquez;

That the defendant Carmen de la Cavada de Enriquez has been in possession of said real property described in the complaint since said 5th day of April, 1884, when she took possession of it
496 under the deed of transfer to her by the defendant Victoriano Reyes, and has collected and received all rents, profits and products thereof since;

The conclusions are:

That Rafael Enriquez, as administrator of the estate of Antonio Enriquez y Sequera, deceased, including the community interests therein of Ciriaca Villanueva, his wife, is the proper person to bring this action, and is entitled to do so;

That the plaintiffs, Rafael Enriquez, Antonio Enriquez, Trinidad Enriquez, Cayetano Enriquez, Rosairia Enriquez and Gertrudis Enriquez are children and heirs of said Antonio Enriquez y Sequera and Ciriaca Villanueva, deceased, and that Antonio Gascon is the minor child and only heir of Concepción Enriquez who was a child of said Antonio Enriquez y Sequera and Ciriaca Villanueva, and died subsequently to -heir death and before the beginnig of this action, and that Nazario Constantino is the guardian ad litem of said minor Antonio Gascon, and that all said plaintiffs are thus entitled to bring this action as real parties in interest in the estate of their parents.

That the defendant Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, have an interest in the estate of said Antonio Enriquez y Sequera and Ciriaca Villanueva, his wife, and thus in the real property the subject matter of this action, the first as the son and heir and the second as the assignee of the interest of Jorge Enriquez as son and heir, and they are proper parties to the action, and that all the defendants are proper parties to the action, the title to said real property having been bought and sold by them, one to the other;

That the real property described in the complaint was ob-
497 tained by said Antonio Enriquez y Sequera and Ciriaca Villanueva, deceased, during the existence of the marriage contract between them, and was community property and part of their joint estate;

That notwithstanding the purchase and sale of said real property by the defendants as aforesaid, and the practical acquiescence therein by the plaintiffs, tha plaintiffs are not estopped from claiming said real property now, because at the time of such practical acknowledg-

ment they were not aware of the fraud perpetrated upon the estate to which they were heirs by the alledged sales and transfers thereof, and that prescription has not run against their right to recover, because they brought the action for the recovery of said real property within four years of the time when they first learned of such fraud;

That the real property described in the complaint is a part of the estate of Antonio Enriquez y Sequera and Ciriaca Villanueva, deceased, of which the plaintiff Rafael Enriquez is administrator;

That the plaintiff administrator is entitled to the possession of the said real property as described in the complaint as a part of the estate of Antonio Enriquez y Sequera, which includes the community interest therein of Ciriaca Villanueva, his wife, which he is administering for the benefit of all the heirs thereof, including the other plaintiffs and the defendant Francisco Enriquez and Carmen de la Cavada de Enriquez, the latter as the assignee of the son and heir Jorge Enriquez;

That the deeds from Francisco Enriquez to Victoriano Reyes and from Victoriano Reyes to Carmen de la Cavada de Enriquez should be set aside and annulled, on the ground of fraud in their execution;

498 That the plaintiff administrator is entitled to recover from the defendant Carmen de la Cavada de Enriquez all the rents, profits and products of said real estate since the 5th day of April, 1884, for the benefit of the estate of said Antonio Enriquez y Sequera, including the community interest therein of his wife Ciriaca Villanueva, and the value of the said rents, profits and products *are* fixed at the sum of twenty-one thousand three hundred pesos up to the 5th day of April, 1906, and one hundred and twenty-five pesos per month thereafter, less the cost of the administration of said property and the expenses of its maintenance;

That the defendant Victoriano Reyes having denied having ever had any interest in said real property, may not be recovered against.

Let judgment be entered in favor of the plaintiff Rafael Enriquez, as administrator of the estate of Antonio Enriquez y Sequera, deceased, and against the defendants Francisco Enriquez and Carmen de la Cavada de Enriquez, for the setting aside and annulment of the deed dated March 12th, 1884, from the defendant Francisco Enriquez to the defendant Victoriano Reyes, and the deed dated April 5th, 1884, from the defendant Victoriano Reyes to the defendant Carmen de la Cavada de Enriquez, for the possession of the real property described in the complaint, as follows: "Nos. 76 to 84 Calle Numancia in the City of Manila, fronting on said Calle Numancia and extending to the lands of Manuel Genato, bounded on the left coming from Calle Numancia by Calle Urbiztondo, measuring 17.80 meters in front, 14.40 meters in depth, and containing a superficial area of 255.03 meters, a *title* more or less, and for judgment

499 against the defendant Carmen de la Cavada de Enriquez for twenty-one Thousand Three Hundred Pesos, and one hundred and twenty-five pesos per month, beginning with the 5th day of April, 1906, less the cost of administering said property and the expense of maintaining the same, which may be hereafter ascertained

upon her accounting, all for the benefit of the estate of Antonio Enriquez y Sequera, deceased, including the community interest therein of Ciriaca Villanueva, his wife, and for the costs of this action against the defendants Francisco Enriquez and Carmen de la Cavada de Enriquez; no costs will be taxed against the defendant Victoriano Reyes.

Manila, P. I., June 28th, 1908.

A. S. CROSSFIELD, *Judge.*

500 UNITED STATES OF AMERICA,
Philippine Islands:

In the Court of First Instance of the City of Manila.

No. 474.

RAFAEL ENRIQUEZ and Others, Plaintiffs,
vs.
FRANCISCO ENRIQUEZ and Others, Defendants.

Come now the defendants, and except to the judgment of this Court, entered on the 28th instant in the above entitled cause, and make a motion for a new trial, upon the following grounds:

1. That the judgment is plainly and manifestly against the weight of evidence;
2. That the judgment is contrary to law.

Manila, June 30, 1906.

(Signed) W. A. KINCAID,
Attorney for Defendants.

Copy of this motion served upon counsel for plaintiffs.

(Signed) W. A. KINCAID.

(Title of Court and Cause.)

To A. A. Montagne, Counsel for plaintiffs.

SIR: You are hereby notified that on the seventh instant, at eight o'clock a. m., or as soon thereafter as counsel may be heard, the undersigned will submit to the Court for decision the motion for a new trial heretofore presented in the above entitled cause.

501 Manila, July 2nd, 1906.

(Signed) W. A. KINCAID,
Attorney for Defendants.

(Title of Court and Cause.)

This case is now before the Court upon a motion for a new trial presented by Attorney Kincaid, and after hearing the said Attorney, Mr. Kincaid, and no one having appeared for the other side, the said motion for a new trial is denied.

Mr. Kincaid excepted to this ruling of the Court, and announced his intention of presenting a bill of exceptions.

It is so ordered.

Manila, July 7, 1906.

(Signed) A. S. CROSSFIELD, *Judge.*

On this ninth day of July, 1906, copies of the foregoing order were sent to the respective parties.

(Signed) JOSÉ CASIMIRO,
Assistant Clerk.

(Title of Court and Cause.)

Mr. Frank B. Ingersoll, Attorney for Plaintiffs.

SIR: You are hereby notified that on Saturday, the twenty-first instant, or as soon thereafter as counsel may be heard, the undersigned will ask the Court of First Instance of the City of
502 Manila to settle and approve a bill of exceptions in the above entitled cause.

Manila, July 18, 1906.

(Signed) W. A. KINCAID,
Attorney for the Defendants.

Received copy this eighteenth day of July, nineteen hundred and six.

(Signed) SOUTHWORTH AND INGERSOLL,
Attorney- for the Plaintiffs.

Thereafter, to-wit, the following order was made, by the Honorable A. S. Crossfield, of the Court of First Instance of the City of Manila:

(Title of Court and Cause.)

I hereby certify that the foregoing bill of exceptions is correct, and contains all the essential parts for a clear understanding of all the errors assigned. Execution of the judgment shall not be stayed unless the appellant executes a good and sufficient bond in the sum of twenty-five thousand dollars, Philippine currency, with sureties of recognized solvency, to the satisfaction of the Court, to secure the performance of the judgment appealed from, in case it be affirmed in whole or in part.

Manila, August 15, 1906.

(Signed) A. S. CROSSFIELD, *Judge.*

PHILIPPINE ISLANDS,
City of Manila, ss:

The undersigned hereby certifies that the foregoing bill of exceptions, composed of thirty-one pages, is the original bill
503 of exceptions presented by the appellant and approved by this court.

In faith whereof I sign these presents, in Manila, this twenty-first day of August, nineteen hundred and six.

(Signed) J. McMICKING, *Clerk*.

Thereafter, to-wit, on the twenty-first of August, nineteen hundred and six, the said cause was duly transmitted to the Supreme Court of the Philippine Islands, wherein it was received on the same day.

On the 11th of December, nineteen hundred and six, attorneys for defendants and appellants filed their brief in the Supreme Court in the said cause, accompanied by the following assignment of errors:

Assignment of Errors.

1.

The Court erred, in holding that the property in question belonged to the conjugal partnership of Antonio Enriquez and Ciriaca Villanueva, his wife;

2.

That assuming that the said property belonged to the conjugal partnership, the court erred in holding that it could not have been sold by the deceased Antonio Enriquez without the concurrence of the heirs of the deceased Ciriaca Villanueva;

3.

The Court erred in holding that the successive conveyances of the property in question, made by the defendant Francisco Enriquez to Victoriano Reyes and by the latter to the defendant
504 Carmen de la Cavada de Enriquez, were fraudulent.

The Court erred in not holding that the said conveyances were subsequently confirmed and approved by the plaintiffs;

5.

The Court erred in failing to find that the action brought by the plaintiffs in this case were barred by the statute of limitations;

6.

The Court erred in failing to hold that the rights of the plaintiffs upon the said property were barred by the statute of limitations;

7.

The Court erred in rendering judgment in favor of the plaintiff Rafael Enriquez, as the administrator of the estate of Antonio Enriquez y Sequera.

On the 20th of March, 1907, attorneys for appellees filed their brief in the Supreme Court.

On the 18th of July, 1907, the case was duly argued and submitted in the said court.

On the 10th of September, 1907, the following stipulation was filed by counsel:

(Title of Court and Cause.)

Counsel for the respective parties in this case hereby stipulate with the consent of the Court as follows:

Whereas some of the evidence taken at the trial in this case is missing from the record, and whereas counsel have copies of the said evidence, taken from the record at the time of the preparation of the briefs, and whereas the said evidence has in some way
505 disappeared, and it is the desire of counsel that this case be decided upon its merits,

It is therefore hereby agreed and stipulated that the consideration of the above entitled cause be postponed until the said evidence is found, counsel hereby promising to furnish the same within a very short time.

(Signed) W. A. KINCAID, *Attorney for Appellants.*
(Signed) SOUTHWORTH AND INGERSOLL,
" HARTIGAN, ROHDE & GUTIERREZ,
Attorneys for Appellees.

Manila, September 10, 1907.

Thereafter, and on the twenty-sixth of September, nineteen hundred and seven, the Supreme Court rendered the following decision.

506 No. 3535.

RAFAEL ENRIQUEZ et al., Plaintiffs and Appellees.
versus
FRANCISCO ENRIQUEZ et al., Defendants and Appellants.

WILLARD, *J.:*

The plaintiffs brought this action on the 10th day of December, 1901, asking that a deed made by the defendant Francisco Enriquez as attorney in fact for his father, Antonio Enriquez, on the 12th day of March, 1884, conveying to Victoriano Reyes the property in question in this suit, and the deed executed by Victoriano Reyes on the 5th of April, 1884, conveying to the defendant Carmen de la Cavada, wife of the defendant, Francisco Enriquez, the same property, be declared fraudulent and void and be set aside. Judgment was entered in the court below in favor of the plaintiff, Rafael Enriquez, as administrator of the estates of Antonio Enriquez and Ciriaca Villanueva, deceased, declaring the deeds above mentioned void and ordering judgment against the defendant Carmen de la Cavada for the rents and profits of the said real estate, amounting to more than 21,000 pesos. From this judgment the defendants, Francisco Enriquez and Carmen de la Cavada, have appealed. A former appeal in this case is reported in 3 Philippine Reports, 746.

On the 5th day of March, 1883, Antonio Enriquez executed a gen-

eral power of attorney in favor of his son, the defendant
507 Francisco Enriquez, by which the latter was authorized to sell and convey the property of Antonio Enriquez. It was by virtue of that power that Francisco Enriquez, during the life time of his father, executed the first of the deeds above mentioned. The property therein conveyed is described as follows: "Three tenement houses erected on land belonging to the owner thereof, made of brick and lumber and situated on Calle Riberita, corner of Barraca, in District of Binondo." The consideration stated in the deed executed by Francisco Enriquez was 2,500 pesos. The consideration stated in the deed executed three or four weeks later by Victoriano Reyes was the same amount, 2,500 pesos.

A great deal of evidence was introduced into the court below relating to these transactions, the plaintiffs claiming that no money was paid by Reyes to Francisco Enriquez, nor was any money paid by Carmen de la Cavada to Reyes. A somewhat similar case (Naval vs. Enriquez, 3 Phil. Rep., 669), was decided in favor of the defendants. In this case, however, we do not find it necessary to resolve the question as to whether these two transactions were bona fide or not, for we think that the parties afterwards, and in 1897, so dealth with the property in question that the plaintiffs have now no interest therein.

The property was acquired by Antonio Enriquez in 1881, during his marriage with Ciriaca Villanueva. She died in the life time of her husband, and that claim of the plaintiffs is that this property belonged to the conjugal partnership; that upon the death
508 of the wife the ownership of one-half thereof passed immediately to her heirs, Antonio Enriquez being thereafter the owner only of the other undivided half, and that when, after the death of Ciriaca Villanueva, Francisco Enriquez, as attorney in fact for his father, attempted to convey all of the property to Victoriano Reyes, he, in fact, only conveyed an undivided interest thereof, even on the assumption that the sale was in good faith and for actual value received. The appellants claim that no property can be considered as conjugal property until after the affairs of the partnership are liquidated and that this liquidation not having taken place at the time of the conveyance of the property in question, the property cannot be considered as conjugal property. We do not find it necessary to decide this question and will assume, for the purpose of this case only, that the theory of the plaintiffs is correct and that upon the death of Ciriaca Villanueva became the owners of an undivided half of the land in question.

The plaintiffs in this action are Rafael Enriquez, as administrator not only of the estate of his father, who died in 1884, but also of the estate of his mother, Ciriaca Villanueva, who died in 1882, and some of the heirs at law of both Ciriaca Villanueva and Antonio Enriquez. So far as the undivided half belonging to Antonio Enriquez is concerned, the action is in effect one brought by the heirs of a
509 principal against his agent to recover property which it is claimed that the agent sold in violation of the terms of his

appointment, or, in other words, property which the agent pretended to have sold but which, in fact, he never did sell.

So far as the undivided half belonging to the heirs of Ciriaca Villanueva is concerned, the action is in effect one brought by them to set aside a conveyance of their property made by a person who pretended to have authority to convey but who, in fact, had no such authority.

In 1897 the present plaintiffs, or the persons whom they represent, were all of full age and capable of making contracts. It is very evident that, assuming all that is claimed by the plaintiffs, namely, that the sale of the undivided half of the property belonging to Antonio Enriquez was fraudulent, and that the sale of the undivided half belonging to Ciriaca Villa[illegible]eva was made by a person who had no authority to make it, it is nevertheless true that the parties interested, being, as has been before said, of full age, with capacity to make contracts, might make a contract by virtue of which they surrendered their rights to the property in suit; and the important question in the case is, Whether they did make such a contract or not?

It appears from the record that prior to 1891 the heirs had been in litigation among themselves over the estates left by their father and mother. On the 22nd of April, 1891, a document was signed by which the heirs agreed to abandon litigation and proceed
510 to the settlement of the estates in an amicable way. Prior to that time Francisco Enriquez, the eldest son of Antonio Enriquez, had been, and then was, the executor of his father's will. The purpose of that document was to secure a liquidation of his accounts, their examination and approval. On the 25th of August, 1896, the defendant Francisco Enriquez, and the plaintiffs, Rafael Enriquez and Antonio Enriquez, executed another public document in which they referred to the document of the 22nd of April, 1891. The document of 1896 stated the rules which should be followed in connection with the examination and approval of the accounts. In pursuance of these rules, the three brothers who signed the document met from time to time in the office of Moreno Lacalle. Minutes of these meetings were kept and signed and some of them were offered in evidence in this case. Among these minutes so offered is that of the meeting of the 3rd of November, 1897. The accounting and the examination was to, and did, include not only the estate of Antonio Enriquez, but also the estate of Ciriaca Villanueva, and it included not only the accounts of Francisco Enriquez as executor of his father's will but also his accounts as attorney in fact of his father prior to his death. In the minute of the meeting of the 3rd of November, 1897, signed by Francisco, Rafael and Antonio Enriquez, it is stated that the accounts are finally and definitely approved, and in regard to the ptoperty still belonging to the two estates it is stated that "the inventory is approved in accordance with the terms of the aforesaid draft" (proyecto de escritura).

511 The fifth clause of this minute is as follows:

Fifth. Rafael and Antonio Enriquez stated that, according to their belief, the dwelling house No. 9 Calle David, the three tenement houses situated on Calle Barraca, all of them located in the

district of Binondo, and another house located on Calle Baluarte (or Fundicion) belonged to the estate, and in consequence of such belief they requested that said property be included in the inventory. Francisco Enriquez replied that the house at No. 9 Calle David was sold by his late father to his wife in consideration of the sum of eight thousand pesos, by a deed executed on March 27th, 1883, attested by Miguel Torres, a notary public, a copy of which is before the claimants. That the house on Calle Fundicion was likewise sold by his late father on a date which he is unable to state on account of the lack of necessary data; that the tenement houses on Calle Barraca (or Riberita) were, on March 12, 1884, sold by Francisco, in his capacity as attorney in fact for his father, to Victoriano de los Reyes, for the sum of 2,500 pesos, which amount, plus 500 pesos, was sent in a draft to his father through Manuel Enriquez. The latter of acknowledgment of the latter amount, as well as the deed of sale, are at the disposition of the parties claimant.

In view of the above, it is agreed upon by the parties to include in the inventory neither the house No. 9 Calle David nor the tenement houses on Calle Barraca, inasmuch as the conveyance thereof was duly explained. It is, however, agreed that the purchase price of the latter property be entered in the debit column of the accounts of the administration, pending the presentation by Francisco
512 of the vouchers relating to the amount of said purchase price; and, as regards the house on Calle Fundicion, it is resolved to obtain more data on which to act.

The minute of this meeting was signed, by Francisco, Rafael and Antonio Enriquez. They thereby expressed their agreement therewith. On the 20th day of November, 1897, a public — was executed in due form before Don Enrique Barrera, a notary public of Manila. This document was signed by all of the present plaintiffs, or by persons whom they represent, either personally or by attorneys in fact, duly authorized so to do. The document contains the following statement:

First. That by deed No. 537 granted in this city by the parties now appearing, Francisco, Rafael and Antonio Enriquez, on the 25th day of August, 1896, before the notary of the College of Manila, Jose Engracio Monroy, which deed is hereby ratified by the said parties, each of them in their own behalf and on behalf of the persons whom they represent (as stated at the beginning of the present document), agreed to the fact that the estates of their deceased parents, Antonio Enriquez y Sequera and Ciriaca Villanueva, were pending the formation of an inventory of the same, subject, in the first place, to the examination and approval of the administrator's accounts, by the parties interested in the said estates, and, in the second place, to the determination of the property belonging to said estates; and, in order to carry on both purposes and all other requisities necessary for the division of the estates, among other particulars they agreed:
513 (1) That the said parties, Rafael and Antonio Enriquez, should proceed to examine the accounts of the estates corresponding to the period from 1884 to the 30th of June, 1906, submitted by Francisco Enriquez as executor of his father, and the ac-

count of 1883, submitted by the same person as administrator of his father during the above year, which examination should be verified within a certain term; and, should any objections arise, that the same should be settled in accordance with the rules laid down in the above-mentioned deed; and (2) that the said Francisco, as executor, should submit to his two brothers a statement of the property, in order that the latter might examine it in the manner provided in the said deed.

Second. That both agreements have been executed by said parties, the above mentioned accounts having been duly examined by Rafael and Antonio Enriquez, who made some objections thereto which were treated according to the stipulations, the same having been resolved by mutual agreement; and agreeing likewise that the executor's accounts from 1884 up to the end of June, 1896, as well as those of the administration of the estates of the deceased Antonio Enriquez during the year of 1883, be condensed in the following form:

Assets.

1. Amounts collected by Francisco Enriquez y Villanueva from the beginning of 1883 up to June 30, 1896, as administrator of his father, Antonio Enriquez, during the first year, and as executor of the same from 1884 up to the said month of June	$216,401.97
514 2. Sale price of a property consisting of three tenement houses situated in the Riberita, Binondo, belonging to the deceased Antonio Enriquez, which sale was effected on March 12, 1884, by Francisco Enriquez, as administrator of the former	2,500.00

This document contains also the following provision:

4. The parties interested in the estates of Antonio Enriquez y Sequera and Ciriaca Villanueva y Solis, and in the name- of all of them, the parties now appearing, with the respective represe-tation claimed by each of them, as stated, fully approve (errors and omissions excepted) the accounts of the administration of the estates of the former during 1883, and those of the intestate estates of both deceased persons, from 1884 to June 30, 1896, which services have been performed by Francisco Enriquez y Villanueva, as appears in the said accounts as submitted and condensed in the form shown in the second clause of this deed.

There follows in the document an inventory of the real and personal property belonging to the estates to be distributed among the heirs. The property here in question is not included therein.

These documents were before the court in the case of Enriquez vs. Enriquez (5 Phil. Rep., 668). The transaction relating to the house in Calle David was before the court in the case of Enriquez vs. Enriquez (5 Off. Gaz. 665), just decided.

The documents of November 3, and November 20, 1897, evidence

a contract between the parties thereto. By the terms of that
515 contract the plaintiffs definitely gave up and surrendered all claim to the property here in question and accepted in lieu thereof the obligation of Francisco Enriquez to pay 2,500 pesos therefor. Francisco Enriquez, on his part, by the document of the third of November, claimed that he had already paid the 2,500 pesos, but agreed that if he could not produce written evidence to show such payment he would pay *if* over again, and by the document of the 20th of November he definitely agreed to pay it, whether he had paid it before or not.

It is said by the plaintiffs in one of their briefs that the settlement contained in this contract was never carried out. So far as the approval of the accounts and the determination of the property still remaining undistributed, there was nothing to be carried out. The contract was a final settlement of those questions. By the terms of the document of the 20th of November it appears that there was a balance against Francisco Enriquez, the executor, of 77,028 pesos and 63 centavos, but the document also states that this balance was not in the possession of the executor because he had from time to time made advances to the plaintiffs and the other heirs and it provided that he should submit statements of such advances, which would be examined for the purpose of determining the amount which each of the heirs was entitled to. This is what remained to be done under the contract, but it has nothing whatever to do with the question as to what property then belonged to the estate and nothing to do with the particular property here involved. Why the amount of the balance to which each one of the persons was entitled after deducting the advances was not determined, does not appear in this case.

516 The contract, made between persons capable of contracting, is binding upon them as any other contract is unless it can be set aside for fraud, misrepresentation or other similar reason. The documents above referred to were set out in the answer of the defendants and parts of the same were copied therein. The plaintiffs did not, by an amended complaint or in any other way, attack the validity of the documents, nor allege that they were not binding on them or that they were obtained by fraud or misrepresentation, nor did they ask in any pleading to have them set aside and declared void. At the trial of the action Rafael Enriquez and Antonio Enriquez, the persons who signed these documents for themselves and in representation of other plaintiffs, testified as witnesses. In their testimony the documents are not mentioned, nor was any claim made by them therein that they were in any way deceived or defrauded in the execution thereof or that such execution was obtained by any fraud or misrepresentation on the part of Francisco Enriquez. In fact the documents are not in any way mentioned in their testimony. It is suggested that while the deed from Francisco Enriquez to Victoriano Reyes was exhibited to them when the documents were signed, yet the deed from Victoriano Reyes to the defendant Carmen de la Cavada was not so exhibited. Upon this point these witnesses remain silent. They did not testify

that at the time they signed these documents they did not know that the property had been conveyed to Carmen de la Cavada, nor did they testify as to when they first learned of this transac-
517 tion. Rafael Enriquez said that he came here in 1896 and has remained here ever since, and, as we judge from his testimony, his only object in coming here was to settle these matters. It is apparent that he devoted practically his whole time from his arrival until November, 1897, in examining the affairs relating to the estates. In his testimony he does not in any way indicate that he did not know when he signed these documents all that he now knows.

It was alleged in the complaint that the value of this property at the time it was sold in 1884 to Victoriano Reyes was 20,000 pesos. No evidence was offered by the plaintiffs in support of this allegation and no evidence whatever was offered by them relating to the value at that time of the property thus conveyed. It was, however, proved by the defendants that this same property was, on the 20th day of December, 1880, sold at public auction to one Antonio Lorenzo Barreto for the sum of 1,367 pesos; that on the 7th day of January, 1881, Barreto transferred to Antonio Enriquez all his interest in that purchase, and that on the 18th day of January, 1882, the then Judge of the Court of First Instance of Manila conveyed the property to Antonio Enriquez for the said sum of 1,367 pesos. Parol evidence was also offered by the defendants which showed that at the time the property was conveyed to Victoriano Reyes in 1884 the houses thereon were in a ruinous condition and occupied by Chinese and that the entire property was worth no more than 2,500 pesos.

The contracts executed on the 3rd day of November and the 20th day of November, 1897, are now binding upon the plain-
518 tiffs. By the terms thereof they gave up and surrendered all their interest in the property here in question, and this action, therefore, cannot be maintained. The judgment of the court below is reversed, without costs to either party in this court, and judgment is entered acquitting the defendants of the complaint, with the costs of the first instance against the plaintiffs and in favor of the defendants, Francisco Enriquez and Carmen de la Cavada.

So ordered.

Arellano, C. J., Torres, Johnson, and Tracy, J. J. concur.

Judgment reversed.

519 Thereafter, and on the seventh of October, nineteen hundred and seven, counsel for plaintiffs and appellees asked for a re-hearing upon a decision of the Supreme Court, which said motion was denied by the Court, on the eighth of October, nineteen hundred and seven.

Thereafter, and on the eighteenth of October, nineteen hundred and seven, a final judgment was entered in the said cause, as follows:

THE UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

RAFAEL ENRIQUEZ and Others, Plaintiffs and Appellees.
vs.
FRANCISCO ENRIQUEZ and Others, Defendants and Appellants.

Judgment, Oct. 10, 1907.
Decision, Book V, page —.
File No. 3535.

This Court having regularly acquired jurisdiction for the trial of the above entitled cause, which was submitted by both parties for decision, after consideration by the Court upon the record and proceedings, this decision and order for judgment having been filed on the 26th of September, nineteen hundred and seven,

It is hereby ordered that the judgment of the Court of First Instance of the City of Manila, dated June 28, 1906, be and the same is hereby reversed, without costs in this instance, and the defendants are acquitted of the complaint, with costs of first instance against the plaintiffs and in favor of the defendants Francisco Enriquez and Carmen de la Cavada.

[SEAL OF COURT.] (Signed) R. HERES,
Acting Clerk of the Supreme Court
of the Philippine Islands.

520 Thereafter, on the eighteenth of October, nineteen hundred and seven, Counsel for Appellees duly excepted to the said final judgment entered in said cause, and on the 26th of October, 1907, the case was remanded to the Court below for execution of the judgment.

On the second day of June, nineteen hundred and eight, attorney for plaintiffs filed the following prayer of appeal from the judgment and decree of the Supreme Court of the Philippine Islands to the Supreme Court of the United States, for the reasons specified in the Assignment of Errors filed therewith:

UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G. No. 3535.

RAFAEL ENRIQUEZ et al., Plaintiffs,
versus
FRANCISCO ENRIQUEZ et al., Defendants.

The above named plaintiffs, conceiving themselves aggrieved by the judgment made and entered on the 18 day of October nineteen

hundred and seven, in the above entitled case, do hereby appeal from the said judgment and decree to the Supreme Court of the United States for the reasons specified in the assignment of errors which is filed herewith, and pray that this appeal may be allowed and that a transcript of the record, proceedings, and papers upon which said judgment and decree was made, duly authenticated, may be
521 sent to the Supreme Court of the United States.

(Signed) HARTIGAN ROHDE,
Attorneys for Plaintiffs.

Dated this 29 day of May, A. D. 1908.

The foregoing claim of appeal is allowed.

(Signed) FLORENTINO TORRES,
Associate Justice.

Dated this 2nd day of June, A. D. 1908.

UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G. No. 3535.

RAFAEL ENRIQUEZ et al., Plaintiffs and Appellants,
vs.
FRANCISCO ENRIQUEZ et al., Defendants and Appellees.

Assignment of Errors.

The plaintiffs in this action, in connection with their petition for an appeal, make the following assignment of errors upon which they rely for the prosecution of the appeal in the above entitled cause.

I.

The court erred in failing and refusing to declare fraudulent and void and to set aside the deed made by the defendant Francisco Enriquez as attorney in fact for his father Antonio Enriquez, on March 12, 1884, conveying to Victoriano Reyes the property
522 in question in this suit, and the deed executed by Victoriano Reyes on April 5, 1884, conveying to the defendant Carmen de la Cavada the same property.

II.

The court erred in failing and refusing to declare null and void and to set aside the deed made by the defendant Francisco Enriquez as attorney in fact for his father, Antonio Enriquez, on March 12, 1884, conveying to Victoriano Reyes the property in question in this suit and the deed executed by Victoriano Reyes on April 5, 1884, conveying to the defendant Carmen de la Cavada the same property,

as far as the same had reference to the undivided half of said property claimed by the plaintiffs to have passed to them by inheritance from Ciriaca Villanueva, wife of Antonio Enriquez, prior to March 12, 1884.

III.

The Court erred in giving force and effect to the documents of April 22, 1891, August 25, 1896, November 3, 1897, and November 20, 1897, set up in defendants' answer as actually having been put into force and effect by the parties.

IV.

The Court erred in holding that the documents of November 3 and November 20, 1897, set up in defendants' answer are binding upon the plaintiffs and constitute an abandonment and a waiver of their claims and a bar to their right of action against the defendants for fraud committed upon them.

V.

The Court erred in denying plaintiffs' motion for a new trial.

VI.

The Court erred in reversing the judgment of the trial court setting aside the deed of March 12, 1884, made by the defendant
523 Francisco Enriquez to Victoriano Reyes and the deed of April 5, 1884, made by Victoriano Reyes to the defendant Carmen de la Cavada, and awarding the property in dispute to the plaintiffs.

VII.

The Court erred in rendering judgment acquitting the defendants of plaintiffs' complaint.

FRANK B. INGERSOLL,
HARTIGAN & ROHDE,
Attorneys for Plaintiffs.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

R. G. No. 3535.

RAFAEL ENRIQUEZ et al., Plaintiffs and Appellees,
versus
FRANCISCO ENRIQUEZ et al., Defendants and Appellants.

PHILIPPINE ISLANDS,
City of Manila, ss:

Rafael Enriquez, being first duly sworn on oath, deposes and says, that he is one of the plaintiffs and appellees in the above entitled

action, and that the real property the title to and possession of which is involved therein exceeds in value the sum of Twenty-five thousand dollars, gold coin of the United States.

(Signed) RAFAEL ENRIQUEZ.

524 Subscribed and sworn to before me this 25th day of May, 1908, deponent exhibiting to me his Cedula Numbered F1424585 and dated Manila April 14th 1908.

RAMON J. LACSON,
Notary Public.

My Commission expires December 31st, 1908.

Know all men by these presents: That we, Rafael Enriquez as principal, and Antonio Enriquez and Trinidad Enriquez, as sureties, are held and firmly bound to Francisco Enriquez and Carmen de la Cavada, his wife; and Victoriano Reyes in the full sum of one thousand pesos to be paid to the said Francisco Enriquez et al. or their assigns: to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators jointly and severally by these presents.

Sealed with our seal- and dated this — day of ——, in the year of our Lord one thousand nine hundred and eight.

Whereas lately in the Supreme Court of the Philippine Islands, in a suit depending in said court between Rafael Enriquez et al., plaintiffs, and *the* Francisco Enriquez et al., defendants, a decree was rendered against the said plaintiffs, and the said plaintiffs having obtained an appeal and filed a copy thereof in the Clerk's Office of the said Court to reverse the decree in the aforesaid suit and a citation directed to the said Francisco Enriquez et al. citing and admonishing the same to be and appear at a session of the Supreme Court of the United States to be holden at the City of Washington on the 30 day of September, 1908;

Now the condition of the above obligation is such that if the said plaintiffs shall prosecute their appeal and answer all dam-
525 ages and costs if they fail to make their plea good, then the above obligation to be void, else to remain in full force and virtue.

(Signed) RAFAEL ENRIQUEZ.
" ANTO. ENRIQUEZ.
" TRINIDAD ENRIQUEZ.
" JAVIER LOPEZ DE ARBIZU,
Husband of Trinidad Enriquez.

Signed, sealed and delivered in the presence of:

WM. J. ROHDE.

Approved:

F. TORRES,
Associate Justice Sup. Crt.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

R. G. No. 3535.

RAFAEL ENRIQUEZ et al., Plaintiffs,
versus
FRANCISCO ENRIQUEZ et al., Defendants.

THE UNITED STATES OF AMERICA, *ss:*

The President of the United States to Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States at the City of Washington within one hundred and twenty days from the date of this writ, pursuant to an appeal duly allowed by the Supreme Court of the Philippine Islands and filed in the Clerk's Office of the said Court on the
526 2 day of June 1908, in a cause wherein Rafael Enriquez et al., are appellees and you are appellants, to show cause, if any, why the decree rendered against the said appellees as in the said appeal mentioned should not be corrected and why speedy justice should not be done to the partice in that behalf.

Witness the Honorable Florentino Torres, Associate Justice of the Philippine Islands, this 2 day of June, 1908.

FLORENTINO TORRES,
Associate Justice of the Supreme Court of the Philippine Islands.

Service of a copy of the within citation is admitted this 3 day of June, 1908.

W. A. KINCAID,
Attorney for Appellees.

527 No. 3535.

UNITED STATES OF AMERICA,
Philippine Islands, City of Manila, ss:

A. B. Powell, being duly sworn on oath says that he is the Chief of the Real Estate Division of the Bureau of Internal Revenue in the City of Manila, and has been so employed for the past two years, that a portion of his duty as such official is the fixing of the valuation of real property in the City of Manila; that he is familiar with the value of such real property.

That the assessed value of the property known as Nos. 76 to 84 Calle Numancia, City of Manila (land and improvements) for the years 1901 and 1902, was P12,236.96; for the years 1903 to 1907, P12,582.90; for the year 1908, P12,192.60 all in Philippine Cur-

rency. That such assessed value was and is the true value of the property during the time mentioned.

(Signed) A. B. POWELL.

Cedula No. F 1300431.
Issued at Manila Jan. 27, '08.

Subscribed and sworn to before me this 22*th* day of June, A. D. 1908.

(Signed) ROBERTO MORENOL,
Notary Public.

My Commission expires 31st Dec. 1908.

528 THE UNITED STATES OF AMERICA:

The Supreme Court of the Philippine Islands.

No. 3535.

RAFAEL ENRIQUEZ et al., Appellants,
vs.
FRANCISCO ENRIQUEZ et al., Appellees.

Now come the appellants in the above entitled cause and through their undersigned attorneys respectfully represent that because of the voluminous record it is impossible to have a translation and transcript made so as to have the same at Washington, D. C., within the time allowed in the order granting this appeal:

Wherefore, they pray that an enlargement of the time specified in said order be granted so that the same shall not expire before sixty (60) days after the thirtieth day of September, A. D. 1908.

(S'g'd) HARTIGAN & ROHDE,
Attorneys for Appellants.

Manila, September 16, 1908.

529 THE UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

#3535.

RAFAEL ENRIQUEZ et al., Appellants,
vs.
FRANCISCO ENRIQUEZ et al., Appellees.

Upon petition of counsel for appellants, and for the reason therein set forth, the time for the filing of the transcript of record in this cause with the Clerk of the Supreme Court of the United States at Washington, D. C., is hereby enlarged so as not to expire before sixty days from the thirtieth day of September, A. D. 1908.

Manila, P. I., September 16, 1908.

(Sgd.) FLORENTINO TORRES,
Associate Justice of the Supreme Court of the Philippine Islands, who Allowed the Appeal.

530 THE UNITED STATES OF AMERICA:

Supreme Court of the Philippine Islands.

I, J. E. Blanco, Clerk of the Supreme Court of the Philippine Islands, do hereby certify that the foregoing 529 typewritten pages constitute a true and correct translation of the record and proceedings in Case No. 3535 of this Court, entitled "Rafael Enriquez, Administrator of the Estate of Antonio Enriquez, deceased, plaintiff and appellant, versus Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, and Victoriano Reyes, defendants and appellees.

In witness whereof, I have hereunto set my hand and affixed the seal of the said Court at Manila, this fourteenth day of October, nineteen hundred and eight.

[Seal Corte Suprema, Islas Filipinas.]

J. E. BLANCO,
Clerk of the Supreme Court of the Philippine Islands.

531 Office of the Clerk Supreme Court, P. I. Received Jun- 2, 1908.

UNITED STATES OF AMERICA:

In the Supreme Court of the Philippine Islands.

R. G. No. 3535.

RAFAEL ENRIQUEZ et al., Plaintiffs,
versus
FRANCISCO ENRIQUEZ et al., Defendants.

The above named plaintiffs, conceiving themselves aggrieved by the judgment made and entered on the 18 day of October, nineteen hundred and seven, in the above entitled case, do hereby appeal from the said judgment and decree to the Supreme Court of the United States for the reasons specified in the assignment of errors which is filed herewith, and pray that this appeal may be allowed and that a transcript of the record, proceedings, and papers upon which said judgment and decree was made, duly authenticated, may be sent to the Supreme Court of the United States.

HARTIGAN & ROHDE,
Attorneys for Plaintiffs.

Dated this 29 day of May, A. D. 1908.

The foregoing claim of appeal is allowed.

FLORENTINO TORRES,
Associate Justice.

Dated this 2nd day of June, A. D. 1908.

532 Supreme Court of the Philippines, Clerk's Office. Received Jun- 3, 1908, 2.40 p. m.

UNITED STATES OF AMERICA,
Philippine Islands:

In the Supreme Court of the Philippine Islands.

R. G. No. 3535.

RAFAEL ENRIQUEZ et al., Plaintiffs,
versus
FRANCISCO ENRIQUEZ et al., Defendants.

THE UNITED STATES OF AMERICA, *ss:*

The President of the United States to Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States at the City of Washington within one hundred and twenty days from the date of this writ, pursuant to an appeal duly allowed by the Supreme Court of the Philippine Islands and filed in the Clerk's office of the said Court on the 2 day of June, 1908, in a cause wherein Rafael Enriquez et al., are appellees and you are appellants, to show cause, if any, why the decree rendered against the said appellees as in the said appeal mentioned should not be corected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Florentino Torres, Associate Justice of the Philippine Islands, this 2 day of June, 1908.

FLORENTINO TORRES,
Associate Justice of the Supreme Court of the Philippine Islands.

Service of a copy of the within citation is admitted this 3 day of June, 1908.

W. A. KINCAID,
By J. B.,
Attorney for Appellees.

Endorsed on cover: File No. 21,573. Philippine Islands Supreme Court. Term No. 183. Rafael Enriquez et al., appellants, vs. Francisco Enriquez and Carmen de la Cavada de Enriquez, his wife. Filed March 29, 1909. File No. 21,573.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1911.

No. 25.

RAFAEL ENRIQUEZ, ADMINISTRATOR OF THE ESTATE OF ANTONIO ENRIQUEZ, PLAINTIFF AND APPELLANT,

vs.

FRANCISCO ENRIQUEZ, CARMEN DE LA CAVADA DE ENRIQUEZ, AND VICTORIANO REYES, DEFENDANTS AND APPELLEES.

BRIEF FOR APPELLANT.

Statement of Facts.

The complaint in this case was filed December 10, 1901, and subsequently there were filed first and second amended complaints, (the latter being found on pages 241 to 245 of the record). The latter to which we refer, it being that upon which final action was taken by the Supreme Court of the Philippine Islands, sets up, first, the citizenship and qualities

of the plaintiffs and defendants, as being or representing the only children and sole heirs of Antonio Enriquez, who died in the month of July, 1884, leaving all his property to his children, the defendant Carmen, however, being the wife of Francisco, and the defendant Victoriano Reyes, an intermediate holder of the real estate described in the bill.

The bill further alleges that on March 5, 1883, and a long time prior thereto, Antonio Enriquez was suffering from such mental infirmity as deprived him of the capacity of transacting business, and that on that date the defendant Francisco, with intent to deceive Antonio, fabricated a certain power of attorney from Antonio to himself, conveying to the attorney the most ample power possible; that the power of attorney was not executed or authorized by Antonio, but after the death of Antonio, on July 31, 1884, he became his executor; that on March 12, 1884, the date of a deed from Francisco to Victoriano Reyes, said Antonio was in the Kingdom of Spain, but that on said date Antonio was the owner of one undivided half and the plaintiffs and their predecessors, together with Francisco Enriquez, were the owners of another undivided one-half of property situated on Calle Numancia, having an area of 255 square meters, more or less; that on said date the property was valued at twenty thousand (20,000) pesos, and at the date of the filing of the bill of complaint was worth forty thousand (40,000) pesos; that about March 12, 1884, Francisco Enriquez executed fraudulently a conveyance of said property to the defendant Victoriano Reyes, such execution being for the purpose of defrauding and cheating Antonio Enriquez and the plaintiffs herein; that the plaintiffs at no time authorized Francisco to dispose of their interest; that the defendant Reyes paid no consideration therefor; that on or about April 5, 1884, Reyes, at the request of his codefendants, for the purpose of cheating and defrauding Antonio, conveyed said property to the defendant Carmen, but such conveyance was a simulated one for the purpose of defrauding and cheating Antonio, and the defendant Carmen paid no

consideration therefor; that since April 5, 1884, the defendants Francisco and Carmen, his wife, have been in the exclusive possession of the property, collecting all the rents and profits and appropriating the same to their own use.

The amended complaint further fixes the value of the rental and prays judgment, that the power of attorney may be declared false, fraudulent, null, and void, and the conveyances to Victoriano Reyes, and by him to the defendant Carmen, may be set aside and declared null and void; that an undivided one-half of the property may be declared to be the property of the estate of Antonio Enriquez, deceased, and the other undivided one-half be declared to be the property of the plaintiff, together with the defendants Francisco Enriquez and Carmen Enriquez; that the defendants may be adjudged to have no exclusive right, title, or interest to said property, and that they may recover from the defendants the value of the rents and profits from the year 1884 to date, and for such further relief as the Court may deem equitable.

The amended answer (page 246), after denying generally allegations not admitted, denied that Rafael Enriquez was the administrator of the estates of Antonio Enriquez and his wife, and alleged that he had no authority whatever to maintain the action, saying that Francisco Enriquez was then and at the time of the filing of the complaint the only administrator of the estate of Antonio Enriquez. It further alleges that the property in question was sold December 27, 1881, for 1,367 pesos at public auction, the purchaser assigning his rights to Antonio Enriquez.

After setting up the power of attorney mentioned in the complaint, it alleges the sale to Victoriano Reyes of the property in question for 2,500 pesos, which sum it alleges was paid to Antonio Enriquez; that Victoriano Reyes, by deed of April 5, 1884, sold the same to Carmen de La Cavada de Enriquez for the same amount; that there had been a liquidation between the plaintiffs and defendant Francisco of all accounts existing between the parties, in which Carmen

de La Cavada de Enriquez took the part as successor in interest of George Enriquez, one of the heirs, the instrument of settlement being recited, and showing a credit to Francisco Enriquez of 2,500 pesos for the property in dispute, this being set out in a instrument under date of November 27, 1897; that the minutes of a meeting between all the parties held November 3, 1897, and the instrument of November 27, 1897, expressly settled and determined this claim by the payment of 2,500 pesos by the defendant to the plaintiffs, by charging his account as executor and administrator therefor; which payment was made, as it states, at the request of the plaintiffs, to avoid further litigation, notwithstanding the fact that he had paid his father the proceeds of the property at the time it was sold; that said liquidation and settlement was still in full force and effect and not attacked, and that the proceeds of the sale were received by the estate of Antonio Enriquez and accepted by all his heirs to their satisfaction, the plaintiffs being thereby estopped from filing their complaint; that more than four years had elapsed since the liquidation and settlement when the complaint was filed; that since the acquisition of the said property by the defendant Carmen, in 1884, she had been in possession of the same in good faith under claim of ownership, publicly, peaceably, and uninterruptedly, acquiring title by ordinary prescription against the plaintiffs.

Upon consideration of the case by the trial court, a decision was rendered (August 30, 1902) in favor of the plaintiffs (Record, p. 226). The court found that the part of Victoriano Reyes in the case was merely that of a dummy and that he never bought the property at all, being used to represent the other defendants. The trial judge therefore directed that both conveyances be treated as null and void, and the defendants Francisco Enriquez and Carmen Enriquez, his wife, were held liable for intervening rents, while required to deed the property to Rafael Enriquez as administrator of the estate of Antonio Enriquez.

An appeal was taken, and upon the cause reaching the Supreme Court of the Philippine Islands that court found the findings of fact of the trial court to be insufficient, containing no finding of fact concerning the alleged knowledge of the plaintiffs as to the sale in question for more than four years, or as to the confirmation of the sale alleged to have been expressly made by the plaintiffs, and set aside the judgment below, returning the case to the trial court for the rendition of a proper judgment (Record, p. 248). Upon the rehearing, some additional testimony being introduced, another judge of first instance again found in favor of the plaintiffs, covering the objections by the Supreme Court to the prior findings by saying (Record, pp. 271, 272) that at the time of the practical acknowledgment (November 3 and 20, 1897) plaintiffs were not estopped, not being aware of the fraud, and prescription had not run, as they brought suit within four years of their knowledge.

An appeal was taken to the Supreme Court of the Philippine Islands, upon which appeal the Supreme Court again reversed the action of the court below and entered a judgment, that court finding that the documents of November 3 and November 20, 1897, evidenced a contract between the parties, by the terms of which the plaintiffs surrendered all claim to the property in question and accepted the obligation of Francisco Enriquez to pay 2,500 pesos therefor. The court comments upon the fact that Rafael Enriquez and Antonio Enriquez did not ask to have these documents set aside and declared void, or claim that they were deceived or defrauded in the execution, or that the same were obtained by any fraud or misrepresentation on the part of Francisco Enriquez.

The court further finds that the witnesses were silent as to when they first learned that the property had been conveyed to Carmen de La Cavada, and that although Rafael Enriquez went to the Islands in 1896, and has remained there ever since, apparently for the purpose of settling matters in

dispute, and had devoted practically all of his time from his arrival until November, 1897, in settling affairs relating to the estates, he did not in his testimony indicate that he did not know when he signed the documents of November 3 and 20 all he now knows.

The court further finds that no evidence was offered by the plaintiffs in support of the allegation that the value of the property when it was sold in 1884 to Victoriano Reyes was 20,000 pesos, and conveyance thereunder was approved by the plaintiffs, and that parol evidence was offered by the defendants showing that at the time of the conveyance to Victoriano Reyes the house was in a ruinous condition, occupied by Chinese, and the entire property worth no more than 2,500 pesos.

The court found the contracts executed November 3 and 20, 1897, were binding upon the plaintiff, and that therefore the action could not be maintained. The judgment of the court below therefore reversed the judgment and acquitted the defendants of the complaint, with the costs of court against the plaintiffs.

From the judgment of the Supreme Court of the Philippine Islands an appeal was taken to this court.

Assignments of Error.

The court erred:

1. In failing and refusing to declare fraudulent and void and to set aside the deed made by the defendant Francisco Enriquez as attorney-in-fact for his father, Antonio Enriquez, on March 12, 1884, conveying to Victoriano Reyes the property in question in this suit and the deed executed by Victoriano Reyes on April 5, 1884, conveying to the defendant Carmen de La Cavada the same property.

2. In failing and refusing to declare null and void and to set aside the deed made by the defendant Francisco Enriquez as attorney-in-fact for his father, Antonio Enriquez, on March 12, 1884, conveying to Victoriano Reyes the property in question in this suit and the deed executed by Victoriano Reyes on April 5, 1884, conveying to the defendant Carmen de La Cavada the same property, as far as the same had reference to the undivided half of said property claimed by the plaintiffs to have passed to them by inheritance from Ciriaca Villanueva, wife of Antonio Enriquez, prior to March 12, 1884.

3. In giving force and effect to the documents of April 22, 1891; August 25, 1896; November 3, 1897, and November 20, 1897, set up in defendants' answer as actually having been put into force and effect by the parties.

4. In holding that the documents of November 3 and November 20, 1897, set up in defendants' answer, are binding upon the plaintiffs and constitute an abandonment and a waiver of their claims and a bar to their right of action against the defendants for fraud committed upon them.

5. In denying plaintiffs' motion for a new trial.

6. In reversing the judgment of the trial court setting aside the deed of March 12, 1884, made by the defendant Francisco Enriquez to Victoriano Reyes, and the deed of April 5, 1884, made by Victoriano Reyes to the defendant Carmen de La Cavada, and awarding the property in dispute to the plaintiffs.

7. In rendering judgment acquitting the defendants of plaintiffs' complaint.

ARGUMENT.

It appears to us that the Supreme Court of the Philippine Islands has entirely misconceived the facts of this case and the law with relation thereto, with the result that a false conclusion has been reached. We will endeavor to review the facts as we consider them to have been established and to apply the law to the conditions revealed.

In the spring of 1883 Antonio Enriquez, father or grandfather of the plaintiffs and defendants, save Carmen de la Cavada, whose father-in-law he was, and Victoriano Reyes, was the owner of the property demanded in the bill, holding an undivided one-half interest in same as the survivor of the conjugal partnership with Ciriaca Villanueva. The title to this property he had acquired in January, 1881, the purchase price then paid for it, apparently, being 1,367 pesos. His wife died in the year 1882, leaving, by operation of law, her share of the property (it being community property) to her ten children, represented on both sides of this action.

About the month of October, 1882, after the death of his wife, Antonio Enriquez fell dangerously ill, suffering in fact from an apoplectic stroke, and from that time on appears to have been incompetent to transact any business whatsoever.

It seems proper at this time to review some of the evidence bearing upon the question of his incompetency.

Luis Quintos, a sanitary inspector (Record, p. 83), called upon him a few days after he was taken ill, and afterwards when he had been removed from his residence on Calle David to the Escolta. He was unable to speak to Antonio because he was paralyzed and deprived of reason and speech. He did not answer when spoken to, and the witness could not understand what he wanted to say. When he visited him at the Escolta he was unable to get any answer to his questions. Sometimes he understood what

Antonio said, but he would talk about something different from what the witness had spoken of. He stammered and answered something different, and as the witness went to talk with him upon an important matter, being unable to talk with him, he ceased speaking. The last times he saw him were in February and March. He realized it was impossible to speak with him.

Pascual Reyes (Record, p. 89) was a servant in the house; saw him every day, and Antonio Enriquez could only make himself understood by signs. He was put in a chair and carried to the launch which conveyed him to Spain. He was unable to walk by himself from the time he was taken ill until his departure. He could not sit up in bed without assistance.

Carmen Gonzales de Badalato (Record, p. 96) visited Antonio Enriquez two or three times during his illness, both at the Calle David and on the Escolta. No one could talk to him. He had lost his speech and was paralyzed. His servants and girls helped him to put on his clothes and to sit on a chair and sometimes in bed.

Agueda Esteban (Record, p. 97) as a child played with the children of Antonio Enriquez and visited their house all the time, as she expressed it. He was unable to speak, could not walk alone or move, had to be assisted by the girls or by the servants. When he was removed to the Escolta he was taken by the servants in a chair and put in a carriage. He was taken from the Escolta to the boat when he went to Spain. He could not move in bed without assistance, and was fed with a spoon; never remembered of any one talking with Antonio Enriquez during his illness. People would speak with him, but he could not answer.

Rufina Bernaldo (Record, p. 104) knew Antonio, as her husband was his coachman; knew when he was sick on Calle David and also on the Escolta; would go there sometimes every day and sometimes every other day. He could not speak or move from his bed. He could not get up alone.

He was fed with a spoon. Never saw any person approach him for the purpose of reading, writing, or signing documents.

Antonio Enriquez (Record, p. 114), a son of Antonio Enriquez, deceased, was with his father when he was taken ill. He left for Spain April 1, 1883. When he was on the Escolta he was with him constantly. He did not speak because he could not answer witness's questions. He was entirely deprived of speech; was just like a statue. He was unable to get out of bed alone. He could not help himself, call anybody, or do anything at all. When he wanted to speak he was unable to do so Never saw any person read or dictate to him or ask him to sign any document. Sometimes witness thought he remembered things, at other times he did not. Antonio was removed to the Escolta by two servants, who took him in a chair to the carriage and then to the Escolta, where he was taken in arms and carried up stairs. He was taken into the house in a chair. He stammered so much it was impossible to understand what he said.

Trinidad Enriquez (Record, p. 125), daughter of Antonio Enriquez, says that on the Escolta he stammered so badly that he could not make himself understood. He could not get out of bed. "We had to dress him, and unassisted he could not get up." When he was removed to the Escolta he was taken down in a chair and put in the carriage. At the Escolta he was taken out of the carriage and put in a chair and then taken upstairs. There was practically no improvement either on Calle David or on the Escolta. He was not in his right mind and his tongue was powerless to speak. His mind was like that of a child, and he often cried without knowing why.

The testimony of Rafael Enriquez (Record, p. 131) relates largely to his condition in Europe and sustains the testimony of the witnesses cited.

As against the testimony given, very barely summarized

in the foregoing, we have the testimony of the defendants Francisco and Carmen Enriquez. The testimony of Carmen Enriquez is so strikingly different from that of the witnesses whose testimony has been given as to call for special attention. She says that after Antonio Enriquez was removed to the Escolta he was very fond of going to the house on the Calle David (Record, p. 142). That he and his brother Manuel constantly talked to each other. That his sons and daughters would never have allowed any servants to touch him. That he would go from his house on the Escolta to Calle David three or four times a week until he left for Spain. That he was supported by one arm and leaning on a cane, and would go down the steps and walk slowly to the other house. That he could climb the stairs supported by some one. That Trinidad was one of those who occasionally accompanied him. That she could carry on a conversation with him and she understood everything he said. That he made himself understood very clearly and comprehended everything.

Francisco Enriquez (Record, p. 198) says that while on the Escolta he would spend hours and hours walking up and down the corridor with a cane in his hand. While on Calle David he had to be assisted by one of his children. That he could articulate some words. That when he was removed to the Escolta he could not talk freely, but could babble and could make himself understood perfectly well.

There was also introduced in evidence a number of family letters written from Barcelona and Madrid, generally in a cheerful strain and indicating a bettered condition of health.

We have thus the testimony of all (except the two defendants) who were brought into close contact with the deceased, and to none of whom did he appear as being fit to conduct any business at the time when he was said to have appointed Francisco Enriquez as his attorney-in-fact.

We next find that on March 12, 1884 (Record, p. 18), Francisco Enriquez, acting as attorney-in-fact of Antonio

Enriquez, conveyed the property in question to Victoriano Reyes on a supposed consideration of 2,500 pesos. There can be no doubt in the minds of any one, we believe, who examines the record that this conveyance was absolutely fictitious. Reyes so says in effect in his answer (Record, p. 7), wherein he shows that the conveyance to him was merely to accommodate Francisco Enriquez and that he paid no money whatever for the property. So we find in examining his deposition (Record, p. 6) that the purpose for which the deed of sale was made to him was to facilitate the transfer of the property to the other defendant, Carmen de La Cavada, wife of the holder of the power of attorney; that he paid nothing for the deed to him and received nothing whatever when he made the conveyance, the conveyance being made in fact, according to its date, about three weeks after Reyes had received title.

Referring again to Reyes' testimony (Record, p. 26), we find that the purpose for which the property was conveyed to him was to be resold a few days later to Carmen, and Francisco so stated. Reyes denies having paid or received 2,500 pesos as stated.

Notwithstanding all this, we find that Carmen, when called as a witness (Record, p. 74), states that Victoriano Reyes called upon her to inquire whether she wanted to buy the property; that this call was made two years before the deed was executed; that her husband told her to do as she pleased about the matter. He says that he saw the money paid by his wife to Reyes (Record, p. 191); that he received himself, when he sold the property, 2,500 pesos, and this money it is claimed he sent to his father in Spain. No evidence of the fact was ever produced, and, without undertaking to produce such evidence, in 1897 Francisco allowed the charge of 2,500 pesos to be made against him in his account, thus, so far as the record shows, for the first time charging or debiting himself with this sum of money.

We think no one can read the testimony and believe that

Carmen de la Cavada paid to Victoriano Reyes 2,500 pesos at the time she claims to have paid them. We have discussed this question somewhat in the brief in No. 24, showing that she was not in a financial condition to have made any such payment. We repeat in substance the facts which are brought out even stronger in this case than in No. 24. Mrs. Enriquez claims to have made the various sums of money paid by her out of business. She does not at any time disclose the nature of her business. Her husband testifies vaguely that she bought and sold rice, native cloth, and jewels. Within the space of two or three years she appears to have paid out, in one transaction, 3,000 pesos; in this transaction, 2,500; in the purchase of the interest of George Enriquez in the estate of his father, 7,000 pesos. She was then a young woman of 20, 21, and 22 years of age. She had inherited nothing and was given nothing by her husband or any one else, and earned nothing unless she earned it in business, an inconsistent and improbable story.

Looking through all pretenses, one must come to the conclusion that the stories in both cases are false, and designed to conceal the taking possession of part of the estate by Francisco Enriquez, or for his benefit.

But it is suggested by the Supreme Court of the Philippines that the transaction, whatever it might have been originally, was supplanted by agreements between the parties of November 3 and 20, 1897, by virtue of the latter of which Francisco Enriquez charged himself with 2,500 pesos, for which he had been unable to account, and which he represented to be the proceeds of the property resultant upon the transfer to Victoriano Reyes. Nowhere does it appear that he ever informed the plaintiffs, or that they ever learned or had reason to suspect, that the real purchaser was either Francisco or Carmen Enriquez. Certainly the only evidence upon the point is the statement in the agreement, made by Francisco himself, that a sale had been had to Victoriano Reyes.

The Supreme Court is in error in saying that the plaintiffs did not testify that "at the time of signing these documents they did not know the property had been conveyed to Carmen de la Cavada, nor did they testify as to when they first learned of this transaction" (Record, p. 224). Rafael shows that he did not have knowledge of the deed of sale in favor of Victoriano Reyes until the third of November. On page 223, referring to the deed of November 20, he testifies that he did not know then that the property in question had been sold to Carmen de la Cavada; that he found that out later. His lengthy answer on folio 407, page 203, indicates a concealment of the sale to the sister-in-law and an active representation of the sale to Reyes, while it appears at the top of page 224 that it was only afterwards that he received information that Victoriano Reyes paid nothing for that property. To say, therefore, as the Supreme Court of the Islands in effect does, that before bringing this suit the plaintiffs should have sought to set aside the agreement of November 20 and otherwise lost the remedies in their possession seems manifestly erroneous. The deeds to Reyes and Mrs. Carmen were in no degree dependent upon or connected with the agreement of November 20, 1897, although had such agreement been carried out, as manifestly it has not been, were such conveyances set aside, Francisco Enriquez might have had a claim to the extent of 2,500 pesos, if they were actually advanced for the benefit of his father.

Nor are these the only respects in which we consider the Supreme Court of the Islands to have erred. For instance, referring to the value of the property in 1884, claimed by the plaintiffs to be 20,000 pesos, the court says, "No evidence was offered by the plaintiffs in support of this allegation, and no evidence whatever was offered by them relating to the value at that time of the property thus conveyed." The court manifestly overlooked the testimony of José Guevara (p. 113), to the effect that its average monthly value from 1884 to 1890 was fifty to seventy-five pesos, and its value

(p. 114) seven or eight thousand pesos; also the testimony of Acadio Arellano, fixing the rental during the same period at from fifty to seventy-five pesos (p. 112), and the testimony of Vicente Colledo (p. 81), indicating the relationship between rental and total values, and showing of necessity that in 1884, the rental being from fifty to seventy-five pesos, its value must have been five thousand to seven thousand five hundred pesos. In other words, the property was then worth, according to the testimony of these three witnesses, from two to three times as much as the amount with which Francisco Enriquez charges himself.

We do not believe anybody can consider the facts in this case, taken as a whole, without coming to the conclusion that there was a premeditated fraud committed by Francisco Enriquez upon his brothers and sisters. Commencing with the execution of the power of attorney from Antonio Enriquez, said to have taken place March 5, 1883, at his house on the Calle David, when in fact he was living on the Escolta, we find that in March, 1884, without any consideration proceeding from Victoriano Reyes, or any one else, he undertook to convey the title to this property to his own wife, Carmen, never even accounting, so far as the record discloses, for the purchase price to his father, or any one else, or even contracting to so account until thirteen years later, and to this day, the account having been the subject of litigation, never having paid anything whatsoever, so far as the court is advised.

We find that Carmen was in no condition to have made the purchase, if we may believe the innate probabilities of the case. We find a concealment by Francisco from his brothers and sisters of the fact of the conveyance to Reyes until November, 1897, and an absolute concealment of any ownership or claim of ownership in Carmen Enriquez.

We find on the part of the Supreme Court of the Philippine Islands a want of thorough appreciation of the case and careful examination of the facts apparent on the record, and

this although they were correctly found by the courts of first instance.

While had the conveyance under the so-called power of attorney been good to convey the interest of Antonio Enriquez, the fact will not be lost sight of that the conveyances in these instances were not made for the purpose of liquidating any debts of the conjugal partnership and therefore were ineffectual to bind the half interest remaining in the children of Ciriaca Enriquez, wife of Antonio Enriquez, and the title to the property having been obtained during the conjugal partnership.

We submit, therefore, that the judgment of the Supreme Court of the Philippine Islands must be reversed and the cause remanded to correct its manifest errors.

Respectfully submitted,

JACKSON H. RALSTON,
FRED'K L. SIDDONS,
WM. E. RICHARDSON,
Attorneys for Appellant.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1910.

No. 183

RAFAEL ENRIQUEZ ET AL., APPELLANTS,

vs.

FRANCISCO ENRIQUEZ AND CARMEN DE LA CAVADA DE ENRIQUEZ, HIS WIFE, APPELLEES.

APPEAL FROM THE SUPREME COURT OF THE PHILIPPINE ISLANDS

BRIEF FOR APPELLEES

NOTE.—Appellees being unable financially to employ counsel to represent them at Washington, the undersigned one of their counsel in the local courts, has consented reluctantly to prepare and forward this brief at the disadvantage of not having received a copy of the brief of appellants, whose counsel under the rules of the Court may wait until six days before the submission of the case to file his brief.

Statement of the Case

The action is to annul and set aside a [illegible] made by the defendant Francisco Enriquez [illegible]

torney in fact for his father Antonio Enriquez on the 12th of March, 1884, conveying the property in controversy to Victoriano Reyes, and the deed made by the latter to the defendant Carmen de la Cavada, wife of the defendant Francisco Enriquez, on the ground of fraud and to recover the rents collected from said property.

On August 30, 1902, judgment was rendered by the Court of First Instance of Manila, Judge Odlin presiding, in favor of the plaintiffs and against the defendants for the restitution of the property and the payment of the rental value thereof which was found to reach the gross sum of ₱19,635.00 pesos from which 25% was deducted on account of taxes, insurance, repairs and other expenses of administration, leaving the net amount adjudged against the defendants ₱14,726.25 pesos. (Printed record, p. 228.)

This judgment was reversed by the Supreme Court of the Philippines and the case remanded in order that the lower court might make necessary findings of fact and for the taking of such further evidence as the parties might desire to submit. (Printed record, pp. 238 to 240 incl.)

Thereupon the pleadings were amended (printed record, pp. 241 to 255). Some additional documentary evidence was offered and on the 28th of

June, 1906, the Court of First Instance, Judge Crossfield presiding, again rendered judgment in favor of the administrator of the estate and against both defendants for the restitution of the property and against the defendant Carmen de la Cavada only for the payment of ₱21,300.00 pesos up to April 5th. 1906, and ₱125.00 pesos per month thereafter from which sums the court ordered that the cost of administering the property should be ascertained and deducted on an accounting to be thereafter made by said defendant Carmen de la Cavada. (Printed record, pp. 266 to 273 incl.)

This second judgment of the trial court was reversed by the Supreme Court of the Philippines and final judgment entered in favor of the defendants on October 18, 1907. (Printed record, pp. 266 to 283, incl.)

The facts are sufficiently stated in the judgment from which this appeal is taken.

THE INTEREST OF THE APPELLANTS IN THE PROPERTY IN CONTROVERSY DOES NOT EXCEED $25,000.00, U. S. CURRENCY, AND THIS COURT IS THEREFORE WITHOUT JURISDICTION.

There were ten heirs to the Estate of Antonio Enriquez and his wife Ciriaca Villanueva. The defendant Francisco Enriquez was one of the ten

and his wife the successor in interest to another. (See par. 4 of stipulation Ex. D. pp. 263-4 printed record.)

The defendants were therefore at the time of the trial the owners of an undivided one-fifth interest in all the property of the estate so that on the hypothesis that the plaintiffs' contention was correct, were the owners together of a one-fifth interest in the real property and rents sued for, leaving an undivided four-fifths interest to the individual appellants who are the real and proper parties in interest.

> "Under the provisions of the Civil Code the ownership of real estate passes to the heirs of the owner instantly on his death. * * * The only ground upon which an administrator can demand of the heirs at law possession of the real estate of which his intestate died seized is that such land will be required to be sold to pay the debts of the deceased. In the case of Ilustre, administrator of the estate of the deceased Calzado, vs. Alaras Frondosa, 8 Off. Gaz., 1833, this court said:
>
> * * * * * * * * * * *
>
> "If there are any heirs of the estate who have not received their participation, they have their remedy by petition for partition of the said estate."

Judgment of the Supreme Court of the Philippine Islands dated August 4, 1911, in the case of Malahacan, administrator of the estate of the deceased Martinez, v. Ignacio et al., reported in Vol. 9 Off. Gaz., 1394.

Plaintiffs allege in their last amended complaint as well as in their previous complaints that the property was worth at the time of the conveyance about 20,000 pesos and at the time of the pendency of the action forty thousand pesos, equivalent to $20,000.00 U. S. Currency. (See par. 14 second amended complaint, p. 243 printed record.)

Defendants denied this allegation and alleged that the property had been acquired by Don Antonio Enriquez at public auction for 1,367 pesos from an estate, a judicial conveyance having been executed by the then judge of the Court of First Instance of Manila on the 27th of December, 1881, a little more than two years before the conveyance in question. (Page 246 printed record.)

Plaintiffs' allegation as to the value of the property was a material circumstance bearing upon the alleged fraud in conveying the property at the price of ₱2,500.00 pesos.

The only evidence offered by the plaintiffs on the subject of the value of the property was the testimony of their witness Vicente Collado who

declared that in his opinion it was worth ₱16,000.00 or $8,000.00 U. S. Currency. (Page 81 printed record.)

This witness gave his opinion as to the value at the time of testifying at the first trial in 1902, but his testimony was re-offered on the second trial in 1905. (See last paragraph of stipulation, p. 265 printed record.)

The defendants offered in evidence a notarial document showing the sale at public auction and judicial conveyance of the property for 1,367 pesos in December, 1881, to show that ₱2,500.00 the price at which it was acquired in March, 1884, by the defendant Carmen de la Cavada was its reasonable value (p. 65 printed record) Francisco Enriquez testifying that the building was in ruins at the time of its purchase by his wife and practically worthless for rental purposes. (Page 193 printed record.)

As to the value of the property in 1902 at the time of the first trial defendants offered in evidence the certificate of the City Assessor & Collector showing that the property was assessed for taxation in the year 1901 at $5,368.48, U. S. Currency, for the lot and $750.00, U. S. Currency, for the house, making a total of $6,118.48 U. S. Currency. (See document 23, p. 68 printed record.)

The foregoing is all the proof offered on the trial as to the present value of the property, the estimate of plaintiffs' only witness on the subject being about 30% in excess of the value shown by the defendants' proof.

Add then the maximum value shown by any of the proofs as to the present value of the real-estate, or say $8,000.00, U. S. Currency, (p. 81 record) to the gross rental value as found by the last judgment of the Court of First Instance or say ₱21,-300.00 equal to $10,650.00, U. S. Currency, up to April 5th, 1906, plus 125 pesos per month until the 18th of October, 1907, the date of the judgment appealed from or say $1,152.16, U. S. Currency, gives a total of but $19,802.16, U. S. Currency, the maximum amount which under the most favorable theory for the appellants could be considered as in controversy. But from this amount there must be deducted the one-fifth interest which would belong to the defendants if the property were decreed to belong to the estate and the cost of administration of the property consisting of taxes, insurance, repairs, etc., which the Court of First Instance at the first trial found to be 25% of the gross receipts. (Page 228 printed record.) Deducting from the amount found by the Court of First Instance at the second trial as the gross rents, 25% for administration would leave but $8,851.52, U. S. Currency, on account of

rents, adding to which $8,000.00 the estimate of plaintiffs' only witness as to the value of the property gives $16,851.52, U. S. Currency, as the total sum which could possibly be recovered on behalf of the estate from the defendants. Deducting from this the one-fifth share of the defendants gives a balance of $13,481.22, U. S. Currency, the maximum amount which could under any theory be found to be in controversy between the parties.

Even if it were admissible to accept the rental value alleged in the complaint as against the proofs and two judgments of the Court of First Instance, still if reasonable deduction be made for administration and the fifth share of the defendants, appellants would still lack the jurisdictional amount, but we feel confident that the Court will not accept the extravagant allegations of the complaint as to the rental value of a property the building on which is shown by uncontradicted testimony to be practically in ruins (p. 193 printed record) and to have been worth in 1902 but $750.00, U. S. Currency, according to the certificate of the City Assessor and Collector. (Page 68 printed record.)

It must be remembered in connection with this certificate that it was offered and admitted without objection and that the assessed valuation of real property in the Philippines, contrary to the case in

some of the States of the Union represents its true market value.

At the time of petitioning the admission of their appeal, appellants presented the affidavit of one of their number to the effect that the real property, the title to and possession of which is involved exceeds in value the sum of Twenty-five thousand dollars, U. S. Currency. (Pages 285-286 printed record.)

The value of the property having been the subject of allegation and proof which is a part of the record, the affidavit of appellants is not admissible to increase the value shown by such proof, but even if it were admissible in connection with the record proofs it is more than counter-balanced by the counter-affidavit presented by the defendants as follows:

> "UNITED STATES OF AMERICA,
>
> Philippine Islands, City of Manila, ss:
>
> A. B. Powell, being duly sworn on oath says that he is the Chief of the Real Estate Division of the Bureau of Internal Revenue in the City of Manila, and has been so employed for the past two years, that a portion of his duty as such official is the fixing of the valuation of real property in the City of Manila; that he is familiar with the value of such real property.

That the assessed value of the property known as Nos. 76 to 84 Calle Numancia, City of Manila (land and improvements) for the years 1901 and 1902, was ₱12,236.96; for the years 1903 to 1907, ₱12,582.90; for the year 1908, ₱12,192.60 all in Philippine Currency. That such assessed value was and is the true value of the property during the time mentioned.

(Signed) A. B. POWELL.

Cedula No. F130043.

Issued at Manila, Jan. 27, 1908.

Subscribed and sworn to before me this 22nd day of June, A. D. 1908.

(Signed) ROBERTO MORENO,
Notary Public.

My Commission expires 31st Dec., 1908."

(Pages 287-8 printed record.)

Moreover, considering the record proof and the two affidavits together that of the defendants is consistent with and corroborated by the record proof while that of appellants is contradicted by the record of the testimony of their own witness who swore that the property in his opinion was worth sixteen thousand pesos. (Page 81 printed record.)

CITATIONS.

"An appeal will be dismissed when it appears from the whole record that the mat-

ter in dispute is less than the jurisdictional amount."

Gray v. Blanchard, 97 U. S. 564.

Bowman v. Chicago & N. W. R. Co. 115 U. S. 611.

"The *onus probandi* as to the amount in controversy, to establish the jurisdiction in a case brought before the court by writ of error, is upon the party seeking to obtain a revision of the case."

Troy v. Evans, 97 U. S. 1.

Wilson v. Blair, 119 U. S. 387.

"An appeal in an action for partition will be dismissed where the value of appellants' share does not reach the jurisdictional amount.

Parker v. Morrill, 106 U. S. 1.

McCarthy v. Provost, 103 U. S. 673.

"Affidavits as to value are not admissible where evidence has been admitted on both sides and the proofs have been transmitted."

Red River Cattle Co. v. Needham, 137 U. S. 632.

That the amount in controversy cannot be held to exceed the amount of the judgment of the Court

of First Instance as to rental value of the property from which plaintiffs did not appeal, see:

Troy v. Evans, 97 U. S. 1.
Gordon's Ogden, 3 Pet. 33; 7 L. ed. 592.
Smith v. Honey, 3 Pet. 469; 7 L. ed. 744.
Pacific Export Co. v. Malin, 131 U. S. 394.
Corke v. Woodrow, 5 Cranch 13, 3 L. ed. 22.

Sec. 10 of the Act of Congress of July 1st, 1902, provides:—

> "That the Supreme Court of the United States shall have jurisdiction to review, revise, reverse, modify, or affirm the final judgments and decrees of the Supreme Court of the Philippine Islands in all actions, cases, causes, and proceedings now pending therein or hereafter determined thereby in which the Constitution or any statute, treaty, title, right, or privilege of the United States is involved, or in causes in which the value in controversy exceeds twenty-five thousand dollars, or in which the title or possession of real estate exceeding in value the sum of twenty-five thousand dollars, to be ascertained by the oath of either party or of other competent witnesses, is involved or brought in question; and such final judgments or decrees may and can be reviewed, revised, reversed,

> modified, or affirmed by said Supreme Court of the United States on appeal or writ of error by the party aggrieved, in the same manner, under the same regulations, and by the same procedure, as far as applicable, as the final judgments and decrees of the Circuit Courts of the United States."

While it is unnecessary in this case to determine whether the alleged rental value of the property can under the foregoing provision be added to the alleged value of the real estate in question for the purpose of determining the amount in controversy, it would seem that it cannot for two reasons: first, because the language of the clause "or in which the title or possession of real-estate exceeding in value the sum of $25,000.00" clearly requires the real-estate in controversy to be of that value independently of any other value in controversy. It is also evident that the preceding language "value in controversy" was not intended to include real-estate in controversy otherwise the special clause as to real-state becomes superfluous. Second, the alleged rental value is a mere incident to the real-estate which must follow the decision as to its title and as to this Court's jurisdiction to pass upon the same.

With nothing before us but the general assignments of error contained in the printed record and without having seen appellants' brief anything we

might say upon the merits could be of no assistance to the Court in arriving at a decision.

We respectfully ask that the appeal be dismissed for want of jurisdiction, and if not, that the judgment appealed from be affirmed on the merits.

Respectfully submitted.

ALLISON D. GIBBS,
For the Appellees.

